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CANADIAN ISSUES

THÈMES CANADIENS

Temporary Foreign Workers Travailleurs étrangers temporaires

Guest Editor / Directeur invité : CHRISTOPHER WORSWICK, Carleton University

Interview with the Honourable JASON KENNEY, Minister of Citizenship, Immigration and Multiculturalism
Entretien avec l'honorable JASON KENNEY, Ministre de la Citoyenneté, de l'Immigration et du Multiculturalisme



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Temporary Foreign Workers, Spring 2010
Travailleurs étrangers temporaires, printemps 2010

- 3** Temporary Foreign Workers: An Introduction
Christopher Worswick
- 6** Travailleurs étrangers temporaires : une introduction
Christopher Worswick
- 10** Interview with the Honourable Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism
- 14** Entretien avec l'honorable Jason Kenney, ministre de la Citoyenneté, de l'Immigration et du Multiculturalisme
- 19** Canada's Temporary Foreign Workers Programs
Arthur Sweetman and Casey Warman
- 25** Rearranging the Deck Chairs? A Critical Examination of Canada's Shifting (Im)migration Policies
Sophia J. Lowe
- 29** Foreign Worker Recruitment and Protection: The Role of Manitoba's *Worker Recruitment and Protection Act*
The Honourable Nancy Allan
- 33** Small Places, Big Changes: Temporary Migration, Immigration and Family Reunification
Alison Moss, Jill Bucklaschuk and Robert C. Annis
- 37** Temporary Migration and Labour Market Responsiveness in the Prairie Provinces
Robert Vineberg
- 42** Insertion socioprofessionnelle des aides familiales résidentes
Marie-Hélène Castonguay et Chakib Benzakour
- 45** Temporary Workers: Permanent Rights?
Delphine Nakache
- 50** Temporary Worker Programs as Precarious Status: Implications for Citizenship, Inclusion and Nation Building in Canada
Luin Goldring
- 55** Le Canada, pays d'accueil d'immigrants : la fin d'une époque?
Denise Helly
- 60** Marginalizing Migrants: Canada's Rising Reliance on Temporary Foreign Workers
Myer Siemiatycki
- 64** Restrictions on Rights and Freedoms of Low-skilled Temporary Foreign Workers: Policy Alternatives Deserving Consideration
Eugénie Depatie-Pelletier
- 68** Équité en matière de santé et de sécurité au service des travailleurs migrants temporaires : problématique du remplacement de la main-d'œuvre canadienne
Sylvie Gravel et Marie-France Raynault
- 73** Not Just a Few Bad Apples: Vulnerability, Health and Temporary Migration in Canada
Jenna L. Hennebry
- 78** Housing Regulations and Living Conditions of Mexican Migrant Workers in the Okanagan Valley, B.C.
Patricia Tomic, Ricardo Trumper, and Luis L. M. Aguiar
- 83** Temporary Workers in Canada: A National Perspective
Ricardo Trumper and Lloyd L. Wong
- 90** Immigration Policy Shifts: From Nation Building to Temporary Migration
Canadian Council for Refugees (CCR)
- 94** Missing from Temporary Foreign Worker Programs: Gender-sensitive Approaches
Heather Gibb
- 96** Temporary Foreign Workers in Canada: A Disposable Workforce?
Yessy Byl
- 99** Building a Disposable Workforce Through Temporary Migration Policy
Karl Flecker
- 104** Responsible Recruitment of Temporary Foreign Workers in Canada
Lyle Tomic
- 107** Temporary Foreign Workers in Canada: Does a Policy with Short-term Purpose Have a Long-term Impact on Unemployment?
Dominique M. Gross
- 112** The Economic Effects of the SAWP on the Canadian Agricultural Industry
Karla Nievas
- 119** Selling Visas to the Highest Bidders?
Don J. DeVoretz
- 122** Temporary Worker Programs: U.S. and Global Experiences
Philip Martin

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TEMPORARY FOREIGN WORKERS: AN INTRODUCTION

The movement into Canada of the foreign-born has been a defining feature of our history. The vast majority of the people involved in this movement have been individuals admitted into Canada with permission to reside here permanently. However, the movement of temporary foreign workers into Canada has existed throughout Canada's history to varying degrees and has grown in importance over the past ten years. Support for immigration has remained high among the Canadian population even when faced with a labour market that has seen a decline across birth cohorts in the earnings of the Canadian-born (Beaudry and Green 2000) and an even larger decline in the earnings of immigrants across recent arrival cohorts (Green and Worswick 2004). Within this broader context of weak labour markets and weak immigrant labour market performance, it is important to evaluate the goals and effectiveness of temporary foreign worker programs (TFWPs) in Canada as well as to gain an understanding of the interactions between the TFWPs and the broader immigration programs. The articles contained in this issue make a number of important contributions to our understanding in this area and raise important questions that need to be considered as public policy towards temporary foreign workers evolves.

Canadian immigration policy has undergone a great deal of innovation in an attempt to improve upon the relatively poor economic outcomes experienced by recent immigrants. These include: 1) increasing the share of immigrants entering under the points system; 2) re-weighting the allocation of points by personal characteristics; 3) the introduction of the Quebec immigrant selection system and the Provincial Nominee Programs (PNPs); and 4) the introduction of the Canadian Experience Class (CEC). While these programs have been introduced for a number of different reasons, they all have a shared goal of improving the labour market outcomes for new (im)migrants in Canada. Coinciding with these extensive policy changes has been the rapid expansion of the movement of the foreign-born into Canada on a temporary basis.

The following excerpt is taken from the Citizenship and Immigration Canada Website:

The federal government's Temporary Foreign Worker Program allows eligible foreign workers to work in Canada for an authorized period of time if employers can demonstrate that they are unable to find suitable Canadians/permanent residents to fill the jobs and that the entry of these workers will not have a negative impact on the Canadian labour market. Employers from all types of businesses can recruit foreign workers with a wide range of skills to meet temporary labour shortages (CIC 2009).

It is clear that the federal government's TFWP is focused on addressing skills shortages in order to facilitate the operation of businesses that would be profitable if resident workers could be hired at the going market wage rate.¹ However, this raises the question of why these labour shortages should exist and especially why they should persist. Within the neoclassical economic framework, when labour demand exceeds labour supply, the wage rate should rise until demand has contracted and supply has increased, leaving them equal. This point is raised by Dominique Gross in her article (see also the article by Karl Flecker). However, it may be the case that the wage would need to rise substantially in order for supply to equal demand, meaning that the commercial enterprise would no longer be viable and no employment would take place in the absence of temporary foreign workers. This is the main economic motivation for a TFWP. However, as Martin points out in his survey of the international experience with TFWPs, the availability of temporary foreign workers will remove the need for the wage to rise and, therefore, may create a situation in which the firms employing temporary foreign workers may grow to be dependent on this supply of foreign labour. The right balance needs to be struck between allowing temporary foreign workers into Canada in order to allow businesses to be viable, while avoiding the existence of a foreign labour supply that would prevent wage rates from naturally rising as demand grows or by allowing companies to become dependent on the relatively cheap source of labour available through the TFWPs.

Clearly, research is needed that attempts to quantify the impact of temporary foreign worker programs on the Canadian economy. Karla Nieves makes an important contribution to this literature. She carries out an investigation of this issue for the case of Canada's Seasonal Agricultural Worker's Program (CSAWP) and the Canadian agricultural industry using methods taken from the literature on the impact of immigration

CHRISTOPHER WORSWICK

Christopher Worswick is an associate professor in the Department of Economics at Carleton University. His main area of research is Labour Economics. A particular focus of his research is the economics of immigration. He has published research on the earnings, unemployment, use of social programs and labour supply of immigrants in Canada and Australia. Dr. Worswick has published approximately 20 academic journal articles.

on the native-born population. Using data from a number of sources, the presence of temporary foreign workers was not found to have any clear effect (either positive or negative) on either local wages or on the quantity of land harvested.

Sweetman and Warman present a review of the different TFWPs in Canada over the past 25 years and evaluate many aspects of these programs from an economic perspective. They argue that the total number of temporary foreign workers in Canada is likely higher than those reported in the official statistics due to the fact that temporary migrants coming into Canada under NAFTA visas are not always documented and included in the official statistics. They cite research indicating that the earnings of temporary foreign workers in Canada are high in relation to those of recent immigrants.

However, the findings of strong average earnings of temporary foreign workers may mask relatively poor outcomes for particular groups of workers. For example, less skilled foreign workers may receive low wages and experience poor work conditions. A number of authors have raised the issue of the restrictive nature of the employment relationship that temporary foreign workers face after arrival in Canada. Delphine Nakache points out that temporary foreign workers cannot work for a new employer without having a new visa issued, which is a risky process that can take time and is in no way guaranteed. This reduces the competitive nature of the labour market for the temporary foreign worker. Unlike a citizen or permanent resident who can accept the best job offer available, a temporary foreign worker is restricted to a single employer. In this context, it would not be surprising to see employers either attempting to reduce the wage being paid to the temporary foreign worker (by renegeing on the terms of the original contract) or to cut production costs by reducing the generosity of other aspects of the employment relationship (e.g. lower-quality housing, food, or work conditions).

A number of the articles deal explicitly with the question of whether temporary migrants should have the same rights as citizens and permanent residents (see the articles by Delphine Nakache, Luin Goldring, Denise Helly, Myer Siemiatycki, and Depatie-Pelletier). Key legal issues revolve around whether temporary foreign workers should have: 1) the right to work for a different employer; 2) the right to leave the workplace when not working; and 3) the right to live outside of the workplace. In addition, Siemiatycki argues that unskilled and semi-skilled TFWs deserve the right to become citizens, as is currently possible for skilled temporary foreign workers through the Canadian Experience Class.

These articles make important contributions to this debate. While references by Depatie-Pelletier to “slavery” and the “servile status” of some temporary foreign workers appear to be excessive, there remains a valid issue as to whether temporary migrants should be afforded greater legal rights than they currently receive. In the absence of completely open borders and no distinctions between citizens and non-citizens, foreign workers will always have different rights than those enjoyed by citizens. It is far from clear that a differential set of rights for temporary migrants (or landed immigrants for that matter) represents discrimination. In this ongoing debate on the legal rights of temporary migrants, it will be important to recognize that some limitations on their rights will be needed. However, whenever a right is removed from temporary foreign workers, it is important for Canadian

public policy-makers to justify why that right is being removed and to fully consider the implications of this decision on the contractual arrangements between the temporary foreign worker and the employer.

Several of the articles deal directly with the issue of workplace safety and health of temporary foreign workers. Jenna Hennebry discusses health issues related to temporary migration, the poor quality of housing in which some groups of migrant workers are required to live, and the potential impact of these health and safety conditions on the Canadian food system. Sylvie Gravel and Marie-France Raynault raise a number of important questions related to workplace safety and access to compensation for temporary foreign workers injured in the workplace. They note that temporary foreign workers may be reticent to report workplace injuries for fear of dismissal. Patricia Tomic, Ricardo Trumper, and Luis Aguiar report results from a qualitative survey carried out among Mexican migrant workers in the Okanagan Valley. They identify problems associated with the quality of housing and the quality of workplace housing inspections.

These studies raise important issues relating to the regulation of the terms of the employment contract between temporary foreign workers and their Canadian employers. The current system does not appear to provide sufficient inspection or enforcement of the terms of the contract. These stories are disturbing and lead one to the conclusion that these issues must be addressed in order to ensure the successful implementation of temporary foreign worker programs in the future. The costs associated with addressing these concerns need to be factored into any cost-benefit analysis of the impact of TFWPs on the Canadian economy.

While TFWPs and immigration can be thought of as two separate gateways for foreign workers in Canada, there exists a movement linking the two that has broad implications for the design and implementation of these programs. Sophia J. Lowe’s article provides an excellent introduction to these issues. She refers to these linkages as “two-step policies,” whereby a foreigner enters Canada first as either a temporary foreign worker or as an international student, then uses the experience or education gained in Canada to facilitate the ultimate goal of obtaining landed immigrant status. An obvious example of this is the new Canadian Experience Class, which makes it easier for applicants with previous work experience or education in Canada to become landed immigrants. This pathway to permanency is available only to highly skilled applicants and does not create a linkage between less-skilled temporary foreign workers and the immigration program. It seems likely that a growing number of skilled temporary foreign workers will have the option of receiving landed immigrant status after working for two or more years in Canada. This has the potential to greatly improve the economic outcomes for new immigrants since a greater fraction of the immigrants receiving permanency in the future will have acquired prior Canadian work experience or education. This also means that future temporary foreign workers may choose to come to Canada primarily to acquire landed immigrant status. This further raises the potential benefits for the temporary migrants but also may place them at even greater risk of abuse by employers since they may be even less likely to complain or return to their home country, for fear of missing out on an opportunity to become landed immigrants.

In addition, a clear linkage has developed between TFWPs directing foreign workers to jobs in Manitoba and the Manitoba PNP. As pointed out in the article by the Honourable Nancy Allan, these workers can apply for landed immigrant status after only six months of residence in Manitoba. In the article by Alison Moss, Jill Bucklaschuk and Robert C. Annis, the authors make the case that this structure leads to wide-ranging permanent impacts on the admission of temporary foreign workers into Manitoba since these workers can readily gain landed immigrant status through the PNP then proceed to sponsor spouses and children for landed immigrant status. Given that many of the workers entering through the TFWPs into Manitoba are relatively low-skilled, this seems at odds with the overall Canadian policy of the last two decades, focusing on the human capital approach of selecting highly skilled immigrants through the points system. It also raises the question of whether the Canadian immigration policy governing the selection of economic immigrants is at risk of devolving into a set of inconsistent policies across the federal government and the provinces.

In addition to the articles on Manitoba's experience cited above, this volume contains a number of other articles that shed light on provincial experiences with TFWPs. Castonguay and Benzakour provide an overview of the history of live-in caregiver programs in Canada, with an emphasis on the Quebec experience. In addition, the results from a survey carried out in 2007 of live-in caregivers in Quebec are presented. As well, Robert Vineberg provides a comprehensive review of the history of temporary migration in Canada with a focus on the Prairie Provinces. Finally, the article by Yessy Byl provides insights on the experience of temporary foreign workers in Alberta.

Several of the articles directly explore the implications of TFWPs for the gender composition of temporary migrant inflow to Canada and the implications possible discrimination faced by temporary foreign workers. Heather Gibb points out that just under one third of temporary foreign workers are women, so the expansion of TFWPs has implications for the gender composition of foreign worker inflow into Canada. Ricardo Trumper and Lloyd L. Wong also consider the potential implications of the expansion of the TFWPs in terms of racial and gender discrimination.

A number of other important contributions are made in the articles of this volume. For example, Lyle Tomie provides valuable insights from the perspective of a recruiter of temporary foreign workers. He provides a set of best practices for recruiting companies, identifying both risks and responsibilities.

Given the documented problems of abuse of at least some temporary foreign workers, it is important that monitoring by government agencies be built into the TFWPs and that adequate penalties be introduced for employers who do not uphold their contractual and legal obligations. Yessy Byl makes reference to proposed legislation in Manitoba, which would require recruiters and employers who employ temporary foreign workers to post bonds in order to ensure compliance. This type of policy development appears promising, and movement in this direction may allow for the successful development of TFWPs that greatly reduce the risk

of abuse. Meissoon Azzaria also contributes to this debate by outlining steps that Canada could take to protect the rights of migrant workers. Finally, Don DeVoretz proposes an innovative, if somewhat controversial, approach to the allocation of temporary foreign worker visas. His article will serve to stimulate debate on the topic.

The set of articles in this volume provides a tremendous amount of knowledge and analysis on the topic of Canada's Temporary Foreign Worker Programs. Given the rapid increase in the number of temporary foreign workers, it is likely that temporary migration will be a key feature of our overall immigration program for the foreseeable future. The analysis and policy proposals presented in these articles provide an excellent foundation upon which both public policy development and future research can be based. However, many important questions remain unanswered. What is the overall impact of Temporary Foreign Workers Programs on the Canadian economy? Do TFWPs lead to an increase in aggregate employment in the affected industries? Do they slow the growth of wage rates in those industries? Do firms use temporary foreign workers only occasionally or is it the same firms that employ temporary foreign workers year in and year out? How widespread are the cases of abuse and poor working conditions? Are these cases found solely in certain industries? What are the costs associated with these cases and how expensive would it be to resolve these issues? These are only a subset of the questions that should be addressed in future research.

The questions posed to Minister Kenney and the responses to those questions provide valuable insights both into the mechanics of TFWPs in Canada as well as into the underlying motivations for these programs. Taken together, the section provides an excellent platform for new researchers and policy-makers interested in TFW issues. However, many questions remain unanswered. In his response to question 13, Minister Kenney provides two key questions to motivate future research. Moving forward, future research should address these questions and the large number of other research questions raised by the authors of the articles of this volume. New research is very much needed in order to guide future policy development in the area of Temporary Foreign Worker Programs in Canada.

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Note

- ¹ A great deal of information regarding Canada's TFWP can be found at <www.cic.gc.ca/english/resources/publications/tfw-guide.asp>.

TRAVAILLEURS ÉTRANGERS TEMPORAIRES : UNE INTRODUCTION

L'arrivée au Canada de personnes nées à l'étranger est une caractéristique déterminante de notre histoire. La grande majorité des personnes ayant fait partie de ce mouvement ont été admises au pays avec l'autorisation d'y résider de façon permanente. Cela dit, la tendance à accueillir au pays des travailleurs étrangers temporaires a toujours existé, à divers degrés, mais a pris de l'importance au cours des dix dernières années. La population canadienne continue d'appuyer les programmes d'immigration, en dépit du fléchissement des gains sur le marché du travail des Canadiens nés au pays, et ce, pour l'ensemble des cohortes de naissance (Beaudry et Green, 2000), ainsi que du repli encore plus important des gains des immigrants en la matière pour l'ensemble des cohortes de nouveaux arrivants (Green et Worswick, 2004). Dans ce contexte de faiblesse du marché du travail et de piètre rendement des immigrants sur ce marché, il est important d'évaluer les objectifs et l'efficacité des Programmes des travailleurs étrangers temporaires (PTET) au Canada et d'analyser les interactions entre les PTET et les programmes d'immigration plus généraux. Les articles qui figurent dans le présent numéro contribuent grandement à notre compréhension de ce secteur et soulèvent d'importantes questions, dont il faut tenir compte au fil de l'évolution de la politique officielle concernant les travailleurs étrangers temporaires.

Une foule d'innovations ont été apportées à la politique canadienne en matière d'immigration, en vue d'améliorer les résultats économiques relativement médiocres obtenus par les nouveaux immigrants. Parmi celles-ci, mentionnons : 1) l'augmentation du nombre d'immigrants admis au pays en vertu du système de points; 2) la repondération des critères d'attribution des points en fonction des caractéristiques personnelles; 3) l'adoption du système de sélection des immigrants du Québec et du Programme des candidats d'une province (PCP); 4) l'introduction de la catégorie de l'expérience canadienne (CEC). Bien qu'ils aient été mis en place pour différentes raisons, ces programmes visent tous à améliorer les résultats obtenus par les nouveaux (im)migrants au Canada sur le marché du travail. Cette importante réorientation va de pair avec une rapide intensification de l'admission au Canada, à titre temporaire, de personnes nées à l'étranger.

Le passage suivant est tiré du site Web de Citoyenneté et Immigration Canada :

Le Programme concernant les travailleurs étrangers temporaires du gouvernement fédéral permet aux étrangers admissibles de travailler au Canada pour une période déterminée si l'employeur peut établir qu'il ne peut trouver de Canadiens ou de résidents permanents pour pourvoir à des postes et que l'arrivée de travailleurs étrangers n'aura pas de répercussions négatives sur le marché du travail canadien. Dans tous les secteurs d'activités, les employeurs peuvent recruter une vaste gamme de travailleurs étrangers pour pallier de brèves pénuries de main-d'œuvre. (CIC, 2009)

Il est évident que le PTET du gouvernement fédéral vise essentiellement à combler des pénuries de main-d'œuvre en vue de faciliter l'exploitation d'entreprises qui seraient rentables si des travailleurs résidents pouvaient être engagés au taux salarial courant du marché¹. Ce qui nous amène à nous interroger sur les raisons de l'existence, et surtout de la persistance, de ces pénuries de main-d'œuvre. Dans le cadre économique néoclassique, lorsque la demande de main-d'œuvre dépasse l'offre, le taux salarial doit augmenter jusqu'à ce que la demande se comprime, que l'offre progresse et que l'équilibre soit atteint. C'est d'ailleurs le point que soulève Dominique Gross dans son article (voir également l'article de Karl Flecker). Des hausses considérables des salaires pourraient toutefois être nécessaires pour que l'offre puisse rattraper la demande, ce qui signifie que les entreprises ne seraient plus rentables et que les emplois disparaîtraient si ce n'était des travailleurs étrangers. Il s'agit de la principale raison d'être économique d'un PTET. Toutefois, comme Martin le souligne dans son étude sur l'expérience des autres pays avec le PTET, il n'est pas nécessaire d'augmenter les salaires puisque des travailleurs

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étrangers temporaires sont disponibles, d'où la possibilité que les entreprises qui engagent des travailleurs étrangers temporaires ne puissent plus se passer de cette main-d'œuvre. Il faut donc trouver un juste équilibre entre l'admission au Canada d'un nombre suffisant de travailleurs étrangers temporaires pour assurer la rentabilité des entreprises et l'assurance que l'existence de cette main-d'œuvre étrangère n'entrave pas la progression naturelle du taux salarial au rythme de la croissance de la demande et que les entreprises ne sont pas à la merci de cette main-d'œuvre relativement bon marché, à laquelle elles ont accès grâce aux PTET.

Manifestement, des recherches sont nécessaires afin de quantifier l'incidence des programmes des travailleurs étrangers temporaires sur l'économie canadienne. La contribution de Karla Nievas à cette documentation est considérable. Elle étudie cette question en regard du Programme des travailleurs agricoles saisonniers du gouvernement du Canada (PTASC) et de l'industrie agricole canadienne, et ses méthodes s'inspirent de la documentation sur les répercussions de l'immigration sur les Canadiens de naissance. Fondée sur des données provenant de différentes sources, cette étude indique que la présence de travailleurs étrangers temporaires ne semble pas avoir d'effet manifeste (positif ou négatif) sur les salaires locaux ou sur la superficie des terres exploitées.

Sweetman et Warman examinent les divers PTET au Canada au cours des 25 dernières années et évaluent de nombreux aspects de ces programmes d'un point de vue économique. Ils font valoir que le nombre total de travailleurs étrangers temporaires au Canada est vraisemblablement supérieur aux statistiques officielles, étant donné que les migrants temporaires qui viennent au Canada munis d'un visa accordé en vertu de l'ALENA ne sont pas toujours pris en compte et inscrits dans les statistiques officielles. Ils citent la recherche indiquant que les gains des travailleurs étrangers temporaires au Canada sont élevés, comparativement à ceux des nouveaux immigrants.

Les constatations selon lesquelles les gains des travailleurs étrangers temporaires sont, en moyenne, élevés peuvent toutefois occulter les assez piètres résultats obtenus par certains groupes particuliers de travailleurs. Par exemple, les travailleurs étrangers moins qualifiés peuvent toucher des salaires peu élevés et devoir travailler dans des conditions difficiles. Un certain nombre d'auteurs ont d'ailleurs souligné la nature restrictive des relations en matière d'emploi auxquelles les travailleurs étrangers temporaires doivent faire face à leur arrivée au Canada. Delphine Nakache fait remarquer que, pour être embauchés par un nouvel employeur, les travailleurs étrangers temporaires doivent présenter une nouvelle demande de visa, une procédure risquée qui peut être longue et dont l'issue n'est pas garantie. D'où une moins grande compétitivité du marché du travail pour les travailleurs étrangers temporaires. Contrairement à un citoyen ou à un résident permanent, qui peut accepter la meilleure offre d'emploi, un travailleur étranger temporaire ne peut travailler que pour un seul employeur. Dans ce contexte, il ne serait pas étonnant de constater que les employeurs tentent de réduire les salaires versés aux travailleurs étrangers temporaires (en renégociant les modalités du contrat original) ou de diminuer les coûts de production, en limitant à l'essentiel d'autres aspects des

relations d'emploi (p. ex., le logement, la nourriture ou les conditions de travail).

Les auteurs d'un certain nombre d'articles se demandent expressément si les migrants temporaires devraient jouir des mêmes droits que les citoyens et les résidents permanents (voir les articles de Delphine Nakache, Luin Goldring, Denise Helly, Myer Siemiatycki et Depatie-Pelletier). Les principales questions juridiques visent à déterminer si les travailleurs étrangers temporaires devraient avoir : 1) le droit de travailler pour un employeur différent; 2) le droit de quitter le lieu de travail lorsqu'ils ne travaillent pas; 3) le droit de vivre à l'extérieur du lieu de travail. Qui plus est, Siemiatycki soutient que les travailleurs étrangers temporaires non qualifiés ou semi-qualifiés devraient avoir le droit de devenir des citoyens canadiens, du fait qu'ils ont accumulé, comme les travailleurs étrangers temporaires qualifiés, de l'expérience canadienne.

Ces articles apportent d'importantes contributions au débat. Même s'il peut paraître exagéré de parler, comme le fait Depatie-Pelletier, d'« esclavage » et d'« état de servilité » dans le cas de certains travailleurs étrangers temporaires, il n'en demeure pas moins qu'il est justifié de se questionner à savoir si l'on ne devrait pas accorder aux migrants temporaires davantage de droits reconnus par la loi que ceux dont ils jouissent à l'heure actuelle. Puisque les frontières ne sont pas entièrement ouvertes et que des distinctions existent entre citoyens et non-citoyens, les travailleurs étrangers n'auront jamais les mêmes droits que les citoyens. Il n'a pas été clairement établi que l'octroi de droits différents aux migrants temporaires (ou même aux immigrants admis) constitue une discrimination. Dans ce débat permanent sur les droits légaux des migrants temporaires, il sera important de reconnaître la nécessité de restreindre, dans une certaine mesure, leurs droits. Cependant, chaque fois que les travailleurs étrangers temporaires sont privés d'un droit, il importe que les responsables des orientations politiques du Canada justifient les raisons d'une telle mesure et qu'ils étudient attentivement les conséquences de cette décision sur les modalités contractuelles liant un travailleur étranger temporaire et un employeur.

Plusieurs articles abordent directement la question de la sécurité du lieu de travail et de la santé des travailleurs étrangers temporaires. Jenna Henneby traite des questions d'hygiène liées à la migration temporaire, de la piètre qualité des logements dans lesquels certains groupes de travailleurs migrants doivent vivre ainsi que des conséquences potentielles de ces conditions sanitaires et sécuritaires sur le système alimentaire canadien. Sylvie Gravel et Marie-France Raynault soulèvent d'importantes questions en matière de sécurité du lieu de travail et de possibilité pour les travailleurs étrangers temporaires d'obtenir des indemnités lorsqu'ils subissent des blessures en leur lieu de travail. Elles soulignent que les travailleurs étrangers temporaires peuvent répugner à déclarer ce genre de blessures, craignant d'être mis à pied. Patricia Tomic, Ricardo Trumper et Luis Aguiar rendent compte des résultats du sondage qualitatif mené auprès de travailleurs migrants mexicains dans la vallée de l'Okanagan. Ils cernent les problèmes associés à la qualité des logements et des inspections des logements sur les lieux de travail.

Ces études mettent en lumière d'importantes questions liées à l'encadrement des modalités des contrats qui

interviennent entre les travailleurs étrangers temporaires et leurs employeurs canadiens. Il semble que le système actuel ne prévoit pas suffisamment d'inspections ou ne favorise pas une application assez rigoureuse des modalités des contrats. Ces témoignages sont inquiétants et portent à croire qu'il faut se pencher sur ces importantes questions, afin d'assurer la mise en œuvre fructueuse, à l'avenir, des programmes des travailleurs étrangers temporaires. Les coûts associés à la résolution de ces problèmes doivent en outre être pris en considération dans toute analyse coûts-avantages de l'incidence des PTET sur l'économie canadienne.

Bien que l'on puisse envisager les PTET et l'immigration comme étant deux portes d'entrée distinctes pour les travailleurs étrangers au Canada, la tendance à associer ces deux voies d'accès a des répercussions sur la conception et la mise en application de ces programmes. L'article de Sophia J. Lowe constitue une excellente introduction à ces questions. Celle-ci qualifie ces liens de « politiques en deux étapes » en vertu desquelles un étranger entre d'abord au pays en qualité de travailleur étranger temporaire ou étudiant étranger et, par la suite, met à profit l'expérience ou l'éducation acquise au Canada pour faciliter la réalisation de l'objectif ultime de devenir un immigrant admis. Pour ne donner qu'un exemple flagrant de cette démarche, mentionnons la nouvelle catégorie de l'expérience canadienne, qui permet aux demandeurs possédant une expérience de travail ou ayant fait des études au Canada de devenir des immigrants admis. Cette voie d'accès à l'obtention du statut de résident permanent n'est offerte qu'aux demandeurs hautement qualifiés et ne permet donc pas d'établir un lien entre les travailleurs étrangers temporaires moins qualifiés et le programme d'immigration. Il semble toutefois qu'il y ait de fortes chances qu'un nombre croissant de travailleurs étrangers temporaires qualifiés aient la possibilité d'obtenir le droit d'établissement après avoir travaillé deux ans ou plus au Canada. Cela pourrait améliorer grandement les résultats économiques obtenus par les nouveaux immigrants, puisqu'à l'avenir, un plus grand nombre d'immigrants qui obtiendront le statut de résidents permanents auront déjà travaillé ou étudié au Canada. Par contre, cela signifie également que les travailleurs étrangers temporaires pourront désormais décider de venir au pays principalement dans le but de devenir des immigrants admis. Les migrants temporaires profiteront d'avantages plus importants, mais courent en revanche un plus grand risque d'être mal traités par leurs employeurs, puisque les chances qu'ils portent plainte ou retournent dans leur pays d'origine, de crainte de rater l'occasion de devenir un immigrant ayant obtenu le droit d'établissement, seront encore plus minces.

De surcroît, un lien a indéniablement été établi entre les PTET qui orientent les travailleurs étrangers vers des emplois au Manitoba et le PCP de cette province. Tel que mentionné dans l'article rédigé par l'honorable Nancy Allan, ces travailleurs peuvent présenter une demande pour devenir des immigrants admis après seulement six mois de résidence au Manitoba. Les auteurs Alison Moss, Jill Bucklaschuk et Robert C. Annis font valoir que cette structure a une incidence permanente généralisée sur l'admission au Manitoba de travailleurs étrangers temporaires, étant donné que ceux-ci peuvent facilement devenir des immigrants ayant obtenu le droit d'établissement

grâce au PCP, puis parrainer ensuite leur épouse et leurs enfants en vue de l'obtention de la résidence permanente. Puisque bon nombre de travailleurs qui entrent au Manitoba grâce aux PTET sont des travailleurs assez peu qualifiés, ces programmes semblent aller à l'encontre de la politique adoptée par le Canada au cours des vingt dernières années, laquelle est essentiellement axée sur l'approche du capital humain préconisant la sélection d'immigrants très qualifiés par le biais du système de points. Il importe également de savoir si la ligne de conduite en matière d'immigration axée sur la sélection d'immigrants de la composante économique pourrait donner lieu à l'adoption, par les administrations fédérale et provinciales, d'une série de mesures incompatibles.

Outre les articles susmentionnés portant sur l'expérience manitobaine, le présent numéro propose d'autres articles jetant un certain éclairage sur les expériences d'autres provinces en ce qui a trait aux PTET. Castonguay et Benzakour décrivent l'historique des programmes concernant les aides familiaux résidents au Canada, en insistant sur l'expérience du Québec. Il est également fait état des résultats de l'étude effectuée en 2007 portant sur les aides familiaux résidents au Québec. En outre, Robert Vineberg examine attentivement l'histoire de la migration temporaire au Canada, tout particulièrement dans les provinces des Prairies. Enfin, l'article de Yessy Byl expose de nouvelles idées au sujet de l'expérience des travailleurs étrangers temporaires en Alberta.

Plusieurs articles étudient directement, du point de vue de la composition des sexes, les répercussions des PTET sur les flux d'entrée des migrants temporaires au Canada et les conséquences de la discrimination dont pourraient être victimes les travailleurs étrangers temporaires. Heather Gibb fait remarquer que les femmes représentent un peu moins du tiers des travailleurs étrangers temporaires; l'élargissement des PTET a donc une incidence sur le taux de féminité des flux d'entrée des travailleurs étrangers temporaires au Canada. Ricardo Trumper et Lloyd L. Wong se penchent également sur les répercussions potentielles de l'élargissement des PTET sous l'angle de la discrimination fondée sur la race et le sexe.

Les articles du présent numéro contiennent plusieurs autres contributions importantes. Par exemple, en sa qualité de recruteur de travailleurs étrangers temporaires, Lyle Tomie offre une perspective unique. Il propose aux entreprises de recrutement une série de pratiques exemplaires circonscrivant à la fois les risques et les responsabilités.

Compte tenu des mauvais traitements avérés dont au moins quelques travailleurs étrangers temporaires ont été victimes, il est important qu'un contrôle, exercé par les organismes gouvernementaux, fasse partie intégrante des PTET et que les employeurs qui ne respectent pas leurs obligations contractuelles et légales fassent l'objet de sanctions pertinentes. Yessy Byl mentionne d'ailleurs des textes de loi proposés au Manitoba prévoyant que les recruteurs et les employeurs qui font appel à des travailleurs étrangers temporaires doivent garantir, par l'entremise d'un cautionnement, qu'ils respecteront leurs obligations. Ces nouveaux développements stratégiques, des plus prometteurs, pourraient mener à la mise en place de PTET susceptibles de réduire considérablement le risque

de mauvais traitements. Meissoo Azzaria participe également au débat, en donnant un aperçu des mesures que le Canada pourrait prendre afin de protéger les droits des travailleurs migrants. Enfin, Don DeVoretz propose une approche novatrice, qui prête toutefois quelque peu à la controverse, relativement à l'octroi de visas aux travailleurs étrangers temporaires. Son article stimulera le débat à ce sujet.

La série d'articles du présent numéro propose une foule de connaissances et d'analyses ayant trait aux programmes canadiens des travailleurs étrangers temporaires. Compte tenu de l'augmentation rapide du nombre de travailleurs étrangers temporaires, il est probable que la migration temporaire constituera un élément clé de notre programme global d'immigration, dans un avenir rapproché. Les analyses et orientations proposées dont il est question dans ces articles offrent de solides assises pour la formulation de politiques générales et la recherche ultérieure. Par ailleurs, bon nombre de questions importantes demeurent sans réponses. Quelle est l'incidence globale sur l'économie canadienne des programmes des travailleurs étrangers temporaires? Les PTET se traduisent-ils par une hausse globale de l'emploi dans les secteurs d'activité touchés? Freinent-ils la croissance des taux salariaux dans ces secteurs? Les entreprises n'ont-elles recours que par intermittence à des travailleurs étrangers temporaires ou sont-ce les mêmes entreprises qui font appel, année après année, à ces travailleurs? Jusqu'à quel point les mauvais traitements et les piètres conditions sont-ils monnaie courante? Ces problèmes sont-ils l'apanage de certains secteurs d'activité? Quels sont les coûts associés à ceux-ci et qu'en coûterait-il pour les régler? Ce ne sont là que quelques exemples des questions devant faire l'objet de recherches ultérieures.

Les questions posées au ministre Kenney et les réponses de celui-ci sont d'un apport précieux pour comprendre à la fois le fonctionnement des PTET au Canada ainsi que les objectifs sous-jacents de ces programmes. Dans son ensemble, la section constitue une excellente plateforme pour de nouveaux chercheurs et décideurs interpellés par les questions liées aux PTET. Toutefois, beaucoup de questions demeurent sans réponses. D'ailleurs, dans sa réponse à la question n° 13, le ministre Kenney propose deux questions clés ouvrant la porte à des recherches ultérieures. Pour aller de l'avant, les prochains travaux de recherche devraient tenter de répondre à ces questions ainsi qu'à toutes les autres questions de recherche soulevées par les auteurs des articles présentés dans le présent volume. De nouveaux travaux de recherche sont plus que nécessaires pour orienter l'élaboration des politiques futures dans le domaine des programmes des travailleurs étrangers temporaires au Canada.

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Note

¹ Le site Web suivant propose de nombreux renseignements sur le PTET au Canada : <www.cic.gc.ca/francais/ressources/publications/tet-guide.asp>.

Le Pont

Le *Pont* est un bulletin d'information publié toutes les six semaines par le Secrétariat du projet Metropolis. Ce bulletin électronique fait état des récentes activités dans chacun des six domaines prioritaires de recherche et comprend aussi des renseignements sur les événements à venir et les publications.

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INTERVIEW WITH THE HONOURABLE JASON KENNEY

Minister of Citizenship, Immigration and Multiculturalism



Q1. How many TFWs were there in Canada in 2008? How are categories like NAFTA visas, professional athletes, artists or religious leaders captured in these numbers?

Please refer to the following Website, which provides preliminary figures for 2008: <www.cic.gc.ca/english/resources/statistics/facts2008/index.asp>.

Workers in certain types of jobs may not require work permits. This includes adjudicators in the arts, emergency services personnel responding to a disaster, visiting university lecturers, flight crew and civil aviation inspectors. In addition, some journalists, business visitors, performing artists, guest speakers, religious leaders, foreign military personnel, foreign government officials, students on-campus, athletes and coaches (to name a few) may not require a work permit. Please note that statistics on our Website *do not* capture those who *do not* require a work permit.

Note that workers under NAFTA *do* require a work permit, but their employers are exempt from obtaining the HRSDC authorization (the Labour Market Opinion or LMO) normally required to hire them.

Q2. There is much public discourse surrounding increasing TFW numbers in Canada. Is the Government of Canada shifting its focus from permanent to temporary migration? What are the different policy objectives pursued by these two types of migration?

The Temporary Foreign Worker Program aims to address labour shortages that are temporary, where neither Canadians nor permanent residents can be found to meet these needs. Generally speaking, the number of foreign workers that come to Canada depends on employer demand. Therefore, increased numbers of temporary foreign workers should not be interpreted as a shift in the Government of Canada's policy toward temporary migration.

While temporary migration – whether of workers, students, or visitors – responds to diverse specific and short-term needs, Canada will continue to rely on permanent migration to support broader economic, social and cultural objectives. Canada is maintaining the number of permanent residents it admits (between 240,000 and 265,000 permanent residents per year). With respect to economic immigration in particular, there are various options toward attaining permanent residence, to respond to the diverse regional and occupational needs of Canada. The Provincial Nominee Program and Quebec-selected Skilled Worker category remain key programs for meeting local and regional labour market needs, while the Federal Skilled Worker Program is the main national stream for supplying the labour market with needed labour for the longer term.

Q3. Many critics cite the European aphorism “nothing is as permanent as a temporary worker” to suggest that Canada’s use of TFWs will have long-term consequences. However, with the Live-in Caregiver Program, and now with the announcement of the Canadian Experience Class it appears that the Government of Canada actually intends to encourage TFWs to stay. Is this the case?

The Canadian Experience Class is geared toward certain temporary foreign workers and foreign student graduates with skilled Canadian work experience. Unlike other existing programs, it allows applicants' Canadian experience to be considered as a key selection factor when immigrating to Canada. Successful applicants in the Canadian Experience Class have necessary the language and occupational

skills to hit the ground running; most often, they are already employed in Canada. For those in the international student stream, they will also have a Canadian post-secondary credential.

Since 1992, the Live-in Caregiver Program (LCP) has been a unique stream of the Temporary Foreign Worker Program (TFWP) that facilitates qualified, low-skilled foreign workers entering Canada. After working as a live-in caregiver for two years, LCP participants may apply from within Canada to become permanent residents. Currently, over 90% of foreign nationals who enter Canada as a live-in caregiver with a work permit apply for permanent residence (PR) through this stream.

Q4. Should TFWs be eligible to access settlement services earlier in their stay in Canada?

Generally speaking, CIC has a duty to maintain quality settlement services for *permanent residents*, to assist in their integration into Canadian society. Those coming here as temporary foreign workers must have the educational, occupational, and language skills required to do the job to which they are destined.

For all temporary foreign workers, CIC expects employers to take an active role in ensuring workers find their place in the community, as employers benefit directly from their presence in Canada.

Also, the Low-skilled Pilot Program imposes several additional requirements on employers. Under the program, the employer assumes greater responsibility for the lower-skilled employees they hire and an employer-employee contract must be signed. Employers must:

- cover all recruitment costs related to hiring;
- help the worker find suitable, affordable accommodation;
- pay full return airfare for the worker;
- provide medical coverage until the worker is eligible for a provincial plan;
- register the worker under the appropriate provincial workers compensation/workplace safety insurance plans.

Q5. There is evidence that suggests that the presence of TFWs can depress wages for local workers, at least those in the bottom wage brackets. What is the Government of Canada doing to ensure that TFWs are not competing for the same jobs as Canadians and that they are actually filling gaps in the Canadian labour market?

The Government of Canada has put in place strict requirements to ensure that Canadians get priority. For example, employers are required to actively recruit Canadian workers at a reasonable wage. If none is available, only then may they

recruit foreign workers. Employers hiring foreign workers are required to pay them a wage that is equal to that of Canadian workers doing the same job in the same geographical area where the work will be performed.

Q6. There appear to be a number of generalized concerns surrounding the status and working conditions of TFWs. What is the Government of Canada doing to mitigate against some of these concerns, including the following: a) the restrictive nature of their employment status makes them more vulnerable to unscrupulous employers; b) TFWs are not afforded the same rights as Canadians; c) there does not appear to be a very vigorous enforcement/compliance mechanism in place to ensure employer compliance to living conditions (like housing standards) or health and safety regulations.

Canadians have the first opportunity at jobs. That is one of the main principles of the Temporary Foreign Worker Program, which is why there are controls in place. In most cases, to ensure Canadians receive priority, employers must be authorized by Service Canada to hire a foreign worker (even when the worker is already present in Canada). This assessment, known as a Labour Market Opinion, must conclude there would likely be no negative impact on the job market for the employer to be authorized to hire temporary foreign workers.

It's also important to remember that temporary foreign workers are in Canada to fill a *specific and temporary* need. Temporary foreign workers are expected to leave Canada if they lose their initial job unless they find new authorized employment. If their intent is to stay in Canada permanently, they may pursue avenues to permanent residency, if eligible.

It's important to note that the same labour standards protect all workers in Canada, including temporary foreign workers. Temporary foreign workers must be paid similar wages and offered similar working conditions as Canadian workers doing the same job. Where Labour Market Opinions are required, employers must prove to Service Canada that workers are being offered working conditions and wages equivalent to those offered to Canadians. Wages are one of the factors that HRSDC/Service Canada considers when deciding whether hiring a foreign worker is the best course of action for Canada. Employers must indicate that the wages they will pay to prospective temporary foreign workers meet or exceed the prevailing wage rate for the occupation and location in question. Temporary foreign workers become members of the union in unionized workplaces, and therefore earn the same wages and have the same working conditions.

The federal government is developing regulatory amendments related to the Temporary Foreign Worker Program that are designed to increase the protection of temporary foreign workers and encourage employer compliance with program requirements. This would include the ability for the federal government to deny employers access to the program for a period of two years, in certain instances. These changes are

intended to be complementary to provincial/territorial labour codes and other workforce regulations. It is anticipated that the regulatory amendments will be finalized in 2010. In the meantime, CIC is working with HRSDC and CBSA to develop implementation guidelines.

In addition, administrative changes recently announced to the Live-in Caregiver Program include requiring employers to provide the similar benefits to those required under the Low-Skilled Pilot Program, except they must provide accommodation rather than assist in finding it. A number of other measures, such as implementing mandatory clauses in employment contracts and improving information materials, are intended to further protections for these workers.

Q7. Like many areas of immigration policy, it appears that policies and regulations surrounding TFWs vary province by province, and that the shared jurisdiction complicated implementation of policies and data collection for evaluation. What is the Government of Canada doing to ensure consistency across the country? For example, if a province like Manitoba introduces useful legislation like the *Worker Recruitment and Protection Act*, does the Government of Canada have a role to play in encouraging that this best practice be replicated across the country?

Approximately 90% of the Canadian workforce is regulated by provincial/territorial governments. Temporary foreign workers have the same rights as their Canadian counterparts. Claims related to mistreatment would also be treated in the same manner as they would for a Canadian worker.

The federal government applauds and encourages provincial efforts that lead to better protection for its workers, including foreign workers.

Q8. There are a number of federal departments and agencies (including HRSDC, CIC, PHAC, and CBSA) implicated in TFW programs. Can you explain the roles of these departments and agencies as well as what kind of coordination infrastructure the Government of Canada has put in place to ensure efficiency and communication among these institutions?

The responsibility for managing the Temporary Foreign Worker Program is shared among three main federal departments: CIC, HRSDC and the CBSA.

CIC is responsible for managing access to Canada when applications for visa and work permits are made at overseas missions or continued access to Canada when applications are made from within Canada. One of CIC's principal concerns is to protect the health, safety and security of Canadian citizens. As such, visa officers in Canada's missions overseas assess the admissibility of foreign nationals to ensure there are no issues concerning security, criminality, and communicable diseases, to cite a few examples. CIC also assesses factors such as the genuineness of the job offer, the

legitimacy of the applicant's intentions, and ensures that the workers have the qualifications and ability to do the job to which they are destined.

HRSDC assesses the risks and benefits to the Canadian job market when determining whether or not a temporary foreign worker should be hired. Generally speaking, their assessment must conclude that there would likely be no negative impact on the Canadian job market.

CBSA officers are responsible for assessing the admissibility of foreign workers as they enter Canada. The CBSA is also responsible for the enforcement of the *Immigration and Refugee Protection Act* when workers and employers do not adhere to the terms and conditions set for them by the three departments.

Q9. Temporary work visas were extended in 2007 to 2 years rather than one. As this large number of visas expires in 2009, what does the Government of Canada expect to happen with these TFWs?

In February 2007, the duration of the employer authorization under the Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D) was increased from a maximum of 12 months to 24 months.

Temporary foreign workers who come to the end of their work permit can be extended if there is an ongoing need for their labour, and they are willing to stay. CIC has to be satisfied that their intent continues to be temporary. It is the choice of the employer to put forward the name of a new or current foreign workers on an application for a labour market opinion (the authorization). Employers may receive authorization if they intend to retain their current employee. However, as is always the case, CIC will assess on a case-by-case basis, based on the requirements of the *Immigration and Refugee Protection Act*, whether or not a work permit will be issued to the worker. For example, CIC checks to ensure the worker's intention is still temporary and that there are no other issues related to criminality, etc. On May 12th, CIC clarified to its officers that work permit applications cannot be refused solely because a temporary foreign worker:

- has already worked in Canada for 24 months; or
- has not returned home for a minimum period of four months.

For more information, please read the following operational bulletin: <www.cic.gc.ca/english/resources/manuals/bulletins/2009/ob113.asp>.

Q10. Research suggests that the TFW Program functioned as planned during the last IT bust and many of these highly skilled workers left Canada to explore opportunities elsewhere. In the present economic downturn, do you expect the same pattern to repeat itself? If not, what ramifications will this have for future TFW policy?

Our preliminary assessment for 2008 shows that numbers in the occupational categories you've mentioned have remained relatively constant. In managerial occupations (NOC 0), there was a slight increase, from 6,603 in 2007 to 7,288 in 2008. In the professional category, there was a slight decrease, from 34,445 in 2007 to 33,116 in 2008. For 2009, it is possible that the full effects of the recession and its consequences for the labour market will translate into decreased numbers of temporary foreign workers. Generally speaking, it is expected that if there is less demand for temporary foreign workers, fewer will enter Canada and, among those already here, fewer will be extended.

Q11. Some provinces have been using their Provincial Nominee Programs to afford permanent status to needed lower-skilled TFWs. At present, the federal Canadian Experience Class only provides opportunities for the highly educated and high-skilled. Do you have any plans to change this to include lower-skilled professions, or are you content to leave this in the hands of the provinces?

It should be noted that the CEC is not restricted to the very highly educated, such as university-educated professionals, but rather includes those in technical occupations and skilled trades – occupations generally requiring a college diploma, certificate or apprenticeship training.

The Canadian Experience Class is designed to select immigrants who will do well in our labour market in the long term, from a national perspective. Many low-skilled workers fill temporary needs that do not translate into permanent labour market needs, and are more vulnerable to economic downturns. In specific regions and industries where there is a longer-term need for lower-skilled workers, the Provincial Nominee Programs are better suited to matching newcomers with the smaller regions in which they are most in demand. These programs are the most appropriate avenue through which lower-skilled workers can apply to immigrate to Canada.

Q12. In the fall, the Auditor General tabled a report on the Government's management of permanent and temporary migration programs. Among the issues identified in the report are some relating specifically to the TFW Program. It notes that there may be some confusion between CIC and HRSDC about their respective roles in assessing the genuineness of job offers, how that assessment is to be conducted, and the prospect that some foreign workers find themselves in vulnerable positions. What is the Government doing to address the Auditor General's concerns?

We welcome the Auditor General's recommendations and agree with the importance of a well-run program that ensures both the timely arrival and the fair employment of TFWs. In fact, we have already taken steps to address issues identified in the Auditor General's report. Working with HRSDC, we've developed regulatory options to strengthen the integrity of the Program, including clarity around roles and responsibilities. The proposed regulatory amendments will require HRSDC to assess the genuineness of job offers where a Labour Market Opinion is required, and CIC to assess the genuineness of a job offer in Labour Market Opinion exempt situations. We also take very seriously the concerns about TFWs finding themselves in vulnerable working conditions, and through proposed regulatory amendments will take steps to enhance program integrity and improve worker protections, including stricter employer monitoring mechanisms and compliance with the terms and conditions of the job offered to a foreign national. Information-sharing agreements with a number of provinces are forthcoming in an effort to support enforcement of federal and provincial laws and standards. These agreements will better ensure that all TFWs are treated fairly, no matter where they work in Canada. It's important to note that the same labour standards protect all workers in Canada, including temporary foreign workers. Temporary foreign workers must be paid similar wages and offered similar working conditions as Canadian workers doing the same job.

Q13. Much of the readership of this magazine is comprised of researchers. Speaking to them from a policy perspective, what three research questions would be most valuable to you in shaping future policy in this area?

Future research questions might examine:

- the economic performance and contribution of temporary foreign workers – what are the impacts both inside Canada and outside Canada?;
- the role of temporary foreign workers in Canadian society – how they participate in our communities, and how we include them in Canada's social fabric;
- the labour market outlook for various skill levels over the medium to long term.

ENTRETIEN AVEC L'HONORABLE JASON KENNEY

Ministre de la Citoyenneté, de l'Immigration et du Multiculturalisme



Q1. Combien y avait-il de travailleurs étrangers temporaires au Canada en 2008? Quelle est la ventilation des catégories, comme les visas de l'ALENA, les athlètes professionnels, les artistes ou les chefs religieux?

Consultez le site Web suivant, qui contient les chiffres préliminaires de 2008 : www.cic.gc.ca/francais/ressources/statistiques/faits2008/index.asp.

Pour certains types d'emploi, les travailleurs pourraient ne pas avoir besoin de permis de travail; par exemple, les membres de jurys dans le domaine des arts, le personnel des services d'urgence intervenant en cas de catastrophe, les chargés de cours invités par les universités, les membres des équipages de bord et les inspecteurs de l'aviation civile. En outre, certains journalistes, visiteurs pour affaires, artistes, conférenciers, chefs religieux, militaires étrangers, représentants de gouvernements étrangers, étudiants sur des campus universitaires, athlètes et entraîneurs (pour n'en nommer que quelques-uns) pourraient ne pas avoir besoin d'un permis de travail. Veuillez prendre note que les statistiques figurant sur notre site Web *ne tiennent pas compte* des travailleurs qui *n'ont pas besoin d'un permis de travail*.

Il importe de noter que les travailleurs en vertu de l'ALENA ont besoin d'un permis de travail. Toutefois, leurs employeurs n'ont pas à obtenir l'autorisation de RHDCC (avis relatifs au marché du travail, ou AMT) normalement requise pour les embaucher.

Q2. Le public parle beaucoup du nombre croissant de travailleurs étrangers temporaires au Canada. Le gouvernement du Canada délaisse-t-il les migrations permanentes pour accorder davantage d'attention aux migrations temporaires? Quels sont les différents objectifs stratégiques visés par ces deux types de migration?

Le Programme des travailleurs étrangers temporaires vise à pallier les pénuries temporaires de main-d'œuvre, lorsque les besoins ne peuvent être comblés par les Canadiens ni par les résidents permanents. Généralement, le nombre de travailleurs étrangers venant au Canada dépend de la demande des employeurs. Par conséquent, un nombre accru de travailleurs étrangers temporaires ne doit pas être vu comme une transformation des politiques canadiennes au profit des migrations temporaires.

S'il est vrai que la migration temporaire – qu'il s'agisse de travailleurs, d'étudiants ou de visiteurs – répond à divers besoins précis et à court terme, le Canada continuera de compter sur la migration permanente pour atteindre ses objectifs économiques, sociaux et culturels plus englobants. Le Canada accueille, chaque année, un nombre constant de résidents permanents (entre 240 000 et 265 000). En ce qui a trait plus particulièrement à l'immigration économique, il existe différentes possibilités de résidence permanente visant à répondre aux besoins professionnels et régionaux du Canada. Le Programme des candidats des provinces et la catégorie des travailleurs qualifiés sélectionnés par le Québec restent des programmes essentiels permettant de répondre aux besoins du marché du travail local et régional, alors que le Programme des travailleurs qualifiés (fédéral) est le volet national principal fournissant au marché du travail la main-d'œuvre dont il a besoin à plus long terme.

Q3. De nombreux critiques citent l'aphorisme européen selon lequel « rien n'est plus permanent qu'un travailleur temporaire » pour insinuer que le recours aux travailleurs étrangers temporaires aura des conséquences à long terme pour le Canada. Toutefois, le Programme concernant les aides familiaux résidents et l'annonce de la création de la catégorie de l'expérience canadienne semblent indiquer que le gouvernement du Canada a l'intention d'inciter les travailleurs étrangers temporaires à rester. Est-ce le cas?

La catégorie de l'expérience canadienne s'adresse à certains travailleurs étrangers temporaires et à certains diplômés étrangers ayant une expérience au Canada à titre de travailleurs qualifiés. Contrairement aux autres programmes existants, elle permet à l'expérience canadienne des demandeurs d'être considérée comme un facteur déterminant de l'immigration au Canada. Grâce à leurs compétences linguistiques et professionnelles, les demandeurs reçus au titre de la catégorie de l'expérience canadienne ont une longueur d'avance; très souvent, ils travaillent déjà au Canada. Quant aux demandeurs qui se trouvent dans la catégorie des étudiants étrangers, ils disposeront également d'un titre de compétences postsecondaire canadien.

Depuis 1992, le Programme concernant les aides familiaux résidents (PAFR) représente un volet bien particulier du Programme des travailleurs étrangers temporaires (PTET). Il facilite l'entrée des travailleurs étrangers qualifiés peu spécialisés au Canada. Après avoir travaillé à titre d'aides familiaux résidents pendant deux ans, les participants au PAFR peuvent présenter une demande de résidence permanente à partir du Canada. À l'heure actuelle, plus de 90 % des étrangers qui entrent au Canada à titre d'aide familial résident avec un permis de travail présentent une demande de résidence permanente (RP) dans le cadre de ce programme d'immigration.

Q4. Les travailleurs étrangers temporaires devraient-ils avoir accès à des services d'établissement plus tôt pendant leur séjour au Canada?

En général, CIC a le devoir d'offrir des services d'établissement de qualité aux *résidents permanents*, afin de les aider à intégrer la société canadienne. Les individus qui arrivent au pays en tant que travailleurs étrangers temporaires doivent disposer de l'éducation et des aptitudes linguistiques et professionnelles nécessaires pour faire le travail auquel ils se destinent.

Étant donné que les employeurs profitent directement de leur présence au Canada, CIC s'attend à ce qu'ils jouent un rôle actif afin de s'assurer que les travailleurs étrangers temporaires trouvent leur place dans la collectivité.

De plus, le Projet pilote concernant les travailleurs peu qualifiés impose des exigences additionnelles aux employeurs. Dans le cadre de ce programme, l'employeur accepte une responsabilité plus élevée à l'égard des employés

peu qualifiés qu'il embauche; un contrat de travail doit être signé. Les employeurs doivent faire ce qui suit :

- payer les coûts de recrutement liés à l'embauche;
- aider le travailleur à trouver un logement convenable et abordable;
- payer le billet de retour du travailleur;
- fournir une couverture médicale au travailleur jusqu'à ce que celui-ci soit admissible au régime d'assurance provincial;
- inscrire le travailleur aux plans provinciaux d'assurances contre les accidents de travail appropriés.

Q5. Certains indices laissent croire que la présence des travailleurs étrangers temporaires peut faire diminuer les salaires des travailleurs locaux, surtout ceux dont les salaires sont les moins élevés. Que fait le gouvernement du Canada pour s'assurer que les travailleurs étrangers temporaires ne tentent pas d'obtenir les mêmes emplois que les Canadiens et qu'ils sont réellement là pour combler des lacunes au sein du marché du travail canadien?

Le gouvernement du Canada a mis en place des exigences strictes pour veiller à ce que les Canadiens aient la priorité. Par exemple, les employeurs doivent recruter activement des travailleurs canadiens à un salaire raisonnable. Ce n'est que s'ils n'en trouvent aucun qu'ils peuvent recruter des travailleurs étrangers. Les employeurs qui embauchent des travailleurs étrangers doivent leur verser un salaire égal à celui des travailleurs canadiens qui occupent le même emploi dans la même région.

Q6. Il semble y avoir un certain nombre de préoccupations généralisées entourant le statut et les conditions de travail des travailleurs étrangers temporaires. Que fait le gouvernement du Canada pour atténuer certaines des préoccupations suivantes : a) la nature contraignante de leur statut d'emploi les rend plus vulnérables à des employeurs sans scrupules; b) les travailleurs étrangers temporaires ne bénéficient pas des mêmes droits que les Canadiens; c) il ne semble pas y avoir de mécanisme très rigoureux de mise en œuvre ou de conformité en place pour veiller à ce que les employeurs se conforment aux conditions de vie (normes domiciliaires) et aux règlements concernant la santé et la sécurité.

Les Canadiens sont les premiers à avoir accès aux emplois. Il s'agit de l'un des principes fondamentaux du Programme des travailleurs étrangers temporaires, et c'est pour cette raison que des contrôles ont été instaurés. Dans la plupart des cas, pour veiller à ce que la priorité soit accordée aux Canadiens, les employeurs doivent recevoir l'autorisation de Service Canada pour embaucher un travailleur étranger (même si le travailleur est déjà présent au Canada). Cette évaluation, qui s'appelle « avis sur le

marché du travail », doit conclure qu'il n'y aurait sans doute aucune incidence négative sur le marché de l'emploi pour qu'un employeur soit autorisé à embaucher des travailleurs étrangers temporaires.

Il est également important de se souvenir que les travailleurs étrangers temporaires sont au Canada pour répondre à un besoin *précis et temporaire*. Un travailleur étranger temporaire doit quitter le Canada s'il perd son emploi initial, à moins qu'il ne trouve un nouvel emploi autorisé. S'il a l'intention de rester au Canada de façon permanente, il pourra obtenir la résidence permanente de différentes façons, s'il y est admissible.

Il est important de souligner que les mêmes normes du travail protègent tous les travailleurs au Canada, y compris les travailleurs étrangers temporaires, qui doivent obtenir des salaires et des conditions de travail semblables à ceux des travailleurs canadiens qui occupent le même emploi. Lorsqu'un avis concernant l'impact sur le marché du travail est nécessaire, les employeurs doivent prouver à Service Canada que les travailleurs obtiennent les mêmes conditions de travail et un salaire équivalent à celui des Canadiens. Le salaire est l'un des facteurs dont tient compte RHDCC/SC pour décider si l'embauche d'un travailleur étranger est la meilleure avenue pour le Canada. Les employeurs doivent indiquer que les salaires qu'ils verseront à des travailleurs étrangers temporaires potentiels sont au moins équivalents aux taux de rémunération en vigueur pour la profession et l'endroit en question. Les travailleurs étrangers temporaires deviennent membres des syndicats, le cas échéant, et touchent donc les mêmes salaires et ont les mêmes conditions de travail.

Le gouvernement fédéral prépare des modifications réglementaires concernant le Programme des travailleurs étrangers temporaires, en vue de mieux protéger les travailleurs étrangers temporaires et d'inciter les employeurs à se conformer aux exigences du Programme. Par exemple, le gouvernement fédéral sera en mesure de refuser l'accès au Programme pendant deux ans à des employeurs, dans certains cas. Ces changements visent à compléter les codes provinciaux et territoriaux du travail et les autres règlements concernant la main-d'œuvre. Les modifications réglementaires devaient être prêtes en 2010. Entre-temps, CIC collabore avec RHDCC et l'ASFC afin de préparer les lignes directrices pour leur mise en œuvre.

En outre, dans le cadre des modifications administratives récemment apportées au Programme concernant les aides familiaux résidents, les employeurs sont tenus d'accorder aux aides familiaux résidents des avantages sociaux semblables à ceux exigés dans le cadre du Projet pilote concernant les travailleurs peu spécialisés. Ils doivent toutefois fournir un logement au travailleur au lieu de l'aider à en trouver un. Un certain nombre d'autres mesures, comme la mise en œuvre de clauses obligatoires dans les contrats de travail et l'amélioration des documents d'information, visent à mieux protéger ces travailleurs.

Q7. Comme de nombreux secteurs concernant la politique d'immigration, il semble que les politiques et règlements touchant les travailleurs étrangers temporaires varient d'une province à l'autre et que cette compétence partagée complique la mise en œuvre des politiques et la collecte de données en vue des évaluations. Que fait le gouvernement du Canada pour garantir l'uniformité dans tout le pays? Par exemple, si une province comme le Manitoba adopte une loi utile au recrutement et la protection des travailleurs, le gouvernement du Canada joue-t-il un rôle afin de s'assurer que cette pratique soit adoptée partout au pays?

Environ 90 % de la main-d'œuvre canadienne est régie par les gouvernements provinciaux et territoriaux. Les travailleurs étrangers temporaires ont les mêmes droits que leurs homologues canadiens. Des allégations de mauvais traitements feraient l'objet de la même attention que pour un travailleur canadien.

Le gouvernement fédéral applaudit et encourage les provinces qui font des efforts en vue de mieux protéger leurs travailleurs, y compris les travailleurs étrangers.

Q8. Le Programme des travailleurs étrangers temporaires affecte de nombreux ministères et organismes fédéraux (y compris RHDCC, CIC, l'ASPC et l'ASFC). Pouvez-vous expliquer le rôle de ces ministères et organismes ainsi que les infrastructures de coordination mises en place par le gouvernement du Canada pour garantir l'efficacité et les communications entre ces organisations?

La responsabilité liée à la gestion du Programme des travailleurs étrangers temporaires est portée par trois principaux organismes fédéraux : CIC, RHDCC et l'ASFC.

CIC est responsable de gérer l'accès au Canada lorsque les demandes de visas et de permis de travail sont présentées dans les missions, ou de gérer le prolongement de l'accès lorsque les demandes sont présentées à partir du Canada. L'une des principales préoccupations de CIC consiste à protéger la santé et la sécurité des citoyens canadiens. Ainsi, les agents des visas canadiens dans les missions évaluent l'admissibilité des ressortissants étrangers pour veiller à ce qu'il n'y ait aucun problème concernant la sécurité, la criminalité et les maladies transmissibles, pour ne mentionner que quelques exemples. CIC évalue également d'autres facteurs, comme l'authenticité de l'offre d'emploi et la légitimité des intentions du demandeur, et s'assure que le demandeur a les qualifications et la capacité nécessaires pour accomplir le travail auquel il se destine.

RHDCC évalue les risques et les avantages, pour le marché de l'emploi canadien, en vue de déterminer si un travailleur étranger temporaire doit être embauché. Généralement, l'évaluation doit conclure qu'il n'y aurait probablement aucune incidence négative sur le marché du travail canadien.

Les agents de l'ASFC sont responsables d'évaluer l'admissibilité des travailleurs étrangers temporaires au moment de

leur entrée au Canada. Ils se chargent également d'appliquer la *Loi sur l'immigration et la protection des réfugiés* lorsque les travailleurs et les employeurs ne respectent pas les modalités qui leur sont imposées par les trois organismes.

Q9. En 2007, la durée de validité des visas de travail temporaires est passée d'un an à deux ans. Étant donné qu'un grand nombre de ces visas expirent en 2009, selon le gouvernement du Canada, qu'advient-il de ces travailleurs étrangers temporaires?

En février 2007, l'autorisation accordée à l'employeur dans le cadre du Projet pilote relatif aux professions exigeant un niveau réduit de formation (niveaux C et D de la CNP) est passée d'un maximum de 12 mois à 24 mois.

Les travailleurs étrangers temporaires dont le permis de travail arrive à sa date d'échéance peuvent bénéficier d'une prolongation si leurs services sont requis et s'ils souhaitent rester. CIC doit avoir la certitude qu'ils sont toujours ici temporairement. L'employeur décide s'il indique le nom d'un travailleur étranger temporaire nouveau ou actuel sur une demande d'avis concernant l'impact sur le marché du travail (l'autorisation). Les employeurs peuvent recevoir l'autorisation s'ils ont l'intention de garder leur employé actuel. Toutefois, comme c'est toujours le cas, CIC évalue les demandes au cas par cas, en fonction des exigences de la *Loi sur l'immigration et la protection des réfugiés*, peu importe si un permis est délivré au travailleur ou non. Par exemple, CIC effectue des vérifications pour s'assurer que les intentions du travailleur sont toujours temporaires et qu'il n'y a aucun problème concernant la criminalité. Le 12 mai, CIC a précisé à ses agents que les demandes de permis de travail ne peuvent pas être refusées simplement parce qu'un travailleur étranger temporaire :

- a déjà travaillé au Canada pendant 24 mois;
- n'est pas retourné chez lui pendant au moins quatre mois.

Pour en apprendre davantage, veuillez lire le bulletin opérationnel suivant : <www.cic.gc.ca/francais/ressources/guides/bulletins/2009/bo113.asp>.

Q10. Selon certaines recherches, le Programme des travailleurs étrangers temporaires a donné les résultats prévus lorsque la TI s'est effondrée et que bon nombre de ces travailleurs hautement qualifiés ont quitté le Canada pour explorer des possibilités ailleurs. Pensez-vous que le ralentissement économique actuel donnera lieu au même phénomène? Sinon, quelles seront les incidences sur les politiques futures concernant les travailleurs étrangers temporaires?

Notre évaluation préliminaire pour 2008 indique que les chiffres concernant les catégories professionnelles dont vous avez parlé demeurent relativement constants. Dans la catégorie de la gestion (CNP 0), il y a eu une légère augmentation : 6 603 en 2007 et à 7 288 en 2008. Dans la catégorie professionnelle, il y a eu une légère diminution : 34 445 en 2007 contre 33 116 en 2008. Pour 2009, il est possible que les effets de la récession

et ses incidences sur le marché du travail fassent diminuer les chiffres concernant les travailleurs étrangers temporaires. En général, on prévoit, si la demande de travailleurs étrangers temporaires diminue, qu'ils seront moins nombreux à entrer au Canada et que, parmi ceux qui sont déjà ici, un nombre moins important verra la durée de son séjour prolongée.

Q11. Certaines provinces se servent du Programme des candidats des provinces pour accorder le statut de résident permanent aux travailleurs étrangers temporaires peu spécialisés requis. Présentement, la catégorie de l'expérience canadienne n'offre des opportunités qu'aux plus éduqués et aux plus spécialisés. Avez-vous l'intention de modifier les exigences afin d'inclure les professions moins spécialisées, ou préférez-vous laisser aux provinces le soin de prendre cette décision?

Il importe de noter que la CEC ne se limite pas aux demandeurs très fortement scolarisés, comme les professionnels détenant un diplôme universitaire, mais inclut également des demandeurs qui exercent une profession technique ou un métier spécialisé nécessitant habituellement un diplôme d'études collégiales, un certificat ou une formation en apprentissage.

La catégorie de l'expérience canadienne vise à choisir des immigrants qui réussiront bien à long terme dans notre marché du travail, à l'échelle nationale. De nombreux travailleurs peu spécialisés répondent à des besoins temporaires, qui ne traduisent pas des besoins à long terme, et ils sont plus vulnérables aux ralentissements économiques.

Dans des régions et des industries précises, où des travailleurs peu spécialisés sont requis à long terme, les Programmes des candidats des provinces sont mieux adaptés pour jumeler les nouveaux arrivants aux plus petites régions où ils sont le plus recherchés. Ces programmes constituent la meilleure façon pour les travailleurs peu spécialisés de présenter une demande d'immigration au Canada.

Q12. À l'automne, la vérificatrice générale a déposé un rapport sur la gestion des programmes de migration permanente et de migration temporaire par le gouvernement. Parmi les préoccupations mises en lumière dans le rapport, certaines concernent directement le PTET, en particulier la confusion qui existe entre CIC et RHDCC à propos de leur rôle respectif dans l'évaluation de l'authenticité des offres d'emploi, de la manière dont l'évaluation doit être réalisée, et du fait que certains travailleurs étrangers se trouvent dans des situations vulnérables. Que fait le gouvernement pour répondre aux préoccupations de la vérificatrice générale?

Nous accueillons favorablement les recommandations de la vérificatrice générale et reconnaissons l'importance d'un programme bien géré, qui permet à la fois l'arrivée rapide et l'emploi équitable de TET. En fait, nous avons déjà pris des

mesures pour répondre aux préoccupations qui figurent dans le rapport de la vérificatrice générale. En collaboration avec RHDCC, nous avons préparé des mesures réglementaires visant à renforcer l'intégrité du Programme, y compris à clarifier les rôles et responsabilités de chacun. Dans le cadre des modifications réglementaires proposées, RHDCC devra évaluer l'authenticité des offres d'emploi lorsqu'un avis sur le marché du travail est requis et CIC devra évaluer l'authenticité des offres d'emploi lorsqu'un tel avis n'est pas nécessaire. Nous prenons également très au sérieux les préoccupations exprimées à propos des TET dont les conditions de travail les rendent vulnérables aux abus. Des mesures seront prises, par l'entremise des modifications réglementaires proposées, afin de renforcer l'intégrité du programme et d'améliorer la protection des travailleurs, notamment en mettant en place de mécanismes plus stricts de surveillance des employeurs et en encourageant ces derniers à respecter les conditions offertes au travailleur étranger. Des ententes d'échange de renseignements sont sur le point d'être conclues avec un certain nombre de provinces afin de soutenir l'application des lois et des normes fédérales et provinciales. Ces ententes permettront de vérifier plus facilement que tous les TET sont traités de manière équitable, quel que soit l'endroit où ils travaillent au Canada. Il est important de noter que les mêmes normes du travail protègent tous les travailleurs au

Canada, y compris les travailleurs étrangers temporaires. Ces derniers doivent recevoir un salaire semblable aux travailleurs canadiens qui font le même travail et avoir des conditions de travail similaires.

Q13. Les chercheurs représentent une partie importante des lecteurs du magazine. Du point de vue des politiques, quelles sont les trois questions concernant la recherche qui vous aideraient le plus à façonner les politiques futures dans ce domaine?

Les questions de recherche futures pourraient tenir compte des éléments suivants :

- Les résultats économiques et la contribution des travailleurs étrangers temporaires; quelles sont les incidences au Canada et à l'étranger?
- Le rôle des travailleurs étrangers temporaires au sein de la société canadienne; leur participation dans nos collectivités et la façon dont nous les incluons dans le tissu social du Canada.
- Quelles sont les perspectives sur le marché du travail pour différents niveaux de compétences, à moyen et à long terme?

Nos diverses cités

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CANADA'S TEMPORARY FOREIGN WORKERS PROGRAMS

ABSTRACT

This article briefly examines the Temporary Foreign Worker (TFW) programs and details potential costs and benefits that TFWs may represent for the Canadian labour market. It then outlines some recent research that shows that TFWs have had strong labour market outcomes in Canada. Finally, it discusses the new Canadian Experience Class and present findings that suggest that immigrants entering under this class will obtain economic success.

When examining economic issues that impact foreign-born workers in Canada, researchers have tended to focus on immigrants. However, another group of foreign-born workers, namely temporary foreign workers (TFWs), has long been an important source of labour used to meet skills shortages in many sectors of the Canadian economy. Yet there is little data regarding the labour market outcomes of TFWs and the impact of the various TFW programs on the Canadian economy, and there has been little economic analysis of the structure of the programs and their interactions with other government and private initiatives. With the recent expansion of TFW programs and the introduction of the Canadian Experience Class, under which TFWs can now apply to become permanent residents, the need to address these issues has become a priority.

In this article, we provide a brief overview of TFW programs, and detail how the size of the overall program has changed over the past 25 years. We also highlight some potential costs and benefits that TFWs may represent for Canadian labour, and then examine how well TFWs have performed in Canada in terms of earning outcomes. Finally, we provide an outline of the new Canadian Experience Class, and summarize recent research on the economic outcomes of immigrants who held a work visa prior to immigration.

A brief description of Canada's TFW programs

There is not one, but rather a set of TFW programs, that can be roughly broken down into groupings of less- and high-skilled occupations.¹ Moreover, a number of TFWs can best be thought of as not fitting into any of the formal programs. In many situations, in order to be granted a work permit, a job offer must first be extended, and a positive Labour Market Opinion issued by Human Resources and Skills Development Canada (HRSDC) is required for some occupations and types of workers.²

The Labour Market Opinion is required in order to protect permanent residents from foreign competition. Normally, the employer must guarantee that a permanent resident cannot be found to do the job. HRSDC investigates the availability of permanent residents to fill the position and whether hiring the foreign worker will be beneficial to permanent residents. HRSDC also has the responsibility of ensuring that the occupational standards and wages provided to the TFW correspond to what a permanent resident would obtain for comparable employment; in some cases, additional stipulations are included. Assuming that a positive Labour Market Opinion is rendered by HRSDC, Citizenship and Immigration Canada (CIC) may issue a work permit.

It is a very complex system. There is a large amount of variation in terms of the history and operation of each program. Also, the programs' timeframes and general objectives differ greatly. We now briefly describe each of the main programs.³

Seasonal Agricultural Worker Program (SAWP)

Formalized in 1966, the SAWP allows employers to hire TFWs for up to eight months per year to deal with shortages in the agricultural sector in Canada. Originally an agreement between Canada and Jamaica, the SAWP has expanded to cover other Caribbean countries and Mexico. While SAWP applies in all provinces except Newfoundland-and-Labrador, the majority of workers in this program are currently employed in Ontario. In addition to promising to ensure that minimum work standards are met, employers must also provide other services, such as housing.

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Live-in Caregiver Program

Originally called the Foreign Domestic Movement Program when it was established in 1981, this program institutionalized the entrance of temporary domestic workers in Canada. Workers under this program care for children, the elderly or the disabled, and must live in the home where they work. Since 1992, the minimum requirements for such workers are:

- Completion of formal education equivalent to a Canadian high school degree;
- English or French language ability;
- Either six months of full-time training, or 12 months of paid work experience related to the job.

Live-in caregivers are able to apply for permanent resident status after working for 24 months over a three-year period.

Pilot project for occupations requiring lower levels of formal training

Called the Low-skilled Worker Pilot Program when it was first created in 2002, this program allows employers to hire workers for certain low-skill occupations (NOC C and D) that usually require a high school diploma or two years of work experience. Changes in 2007 extended the maximum duration of the permit from 12 to 24 months. In order to get a subsequent work permit under the Low-Skilled Pilot Project, the worker must return to his or her home country for at least four months.

Temporary Foreign Worker Program – High-skilled workers

High-skilled workers in managerial and professional occupations (NOC O or A) as well as technical occupations and skilled trades (NOC B) can be hired to meet short-term labour shortages. Many aspects of this program are beneficial to TFWs, such as spousal work permits.

Other “programs” and other TFWs

A large number of TFWs do not fit into these four categories. There are many occupations for which foreign residents do not require a work permit, such as athletes, academics and students working on campus. Some occupations require a work permit, but not a Labour Market Opinion. Also, under certain trade agreements, workers in certain occupations are not required to obtain work permits or undergo a Labour Market Opinion (e.g. Business Visitors from the U.S. or Mexico who enter under NAFTA); in fact, they are not always registered and their numbers are not known.

Some temporary residents can also work without restrictions on the type of employment they obtain. For example, spouses of TFWs authorized to work in Canada

for at least six months and employed in skilled trades, or in managerial, professional or technical occupations, are able to obtain a work permit without a Labour Market Opinion. The work permit is open and for the same duration as the primary TFW’s permit. Spouses of students are also able to obtain such work permits.

While the TFW programs are diverse, for the most part they share the same function of improving the efficiency of the Canadian economy by addressing labour shortages that would not otherwise be filled by permanent residents.

Size of the TFW program

In Figure 1, we plot the number of TFWs from 1984 to 2008. The data underlying these plots comes from CIC’s *Facts and Figures: Immigration Overview Permanent and Temporary Residents 2008* (2009). As such, TFWs are even more narrowly defined than if one was only counting those who hold a work permit. They are defined as non-permanent residents whose main reason for being in Canada is to work and who have obtained a work permit from CIC.⁴ Hence, those individuals

who hold both a student visa and a work permit are not counted here. Categories in this data set include “initial entries” – i.e. individuals who initially arrived as temporary residents at any time during the year, while “re-entries” left Canada during a previous year and returned at some point during the year in question. The “still present” are those deemed to still be working in Canada at the start of the year, and the “total” curve is the sum of these three groups; it represents the total number of TFWs in the country at some point in the year. An alternative measure, also depicted on the plot, is the stock on December 1st.

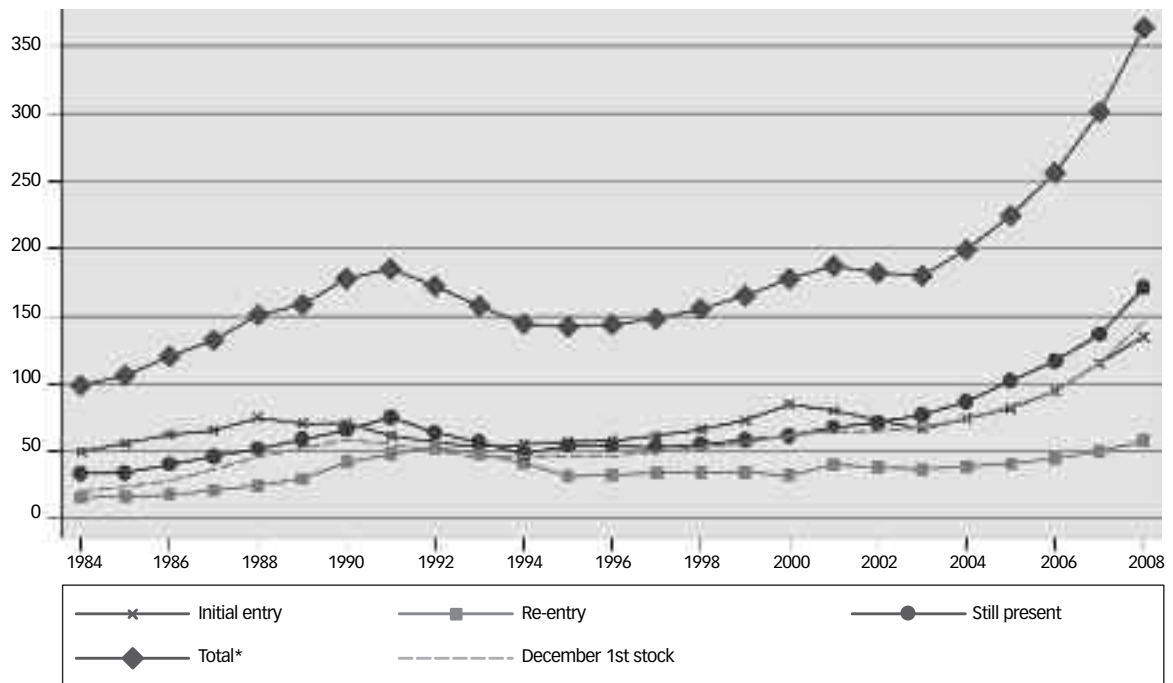
Looking at the total number of TFWs in Figure 1, it is apparent that their annual count (even using this narrow definition) is comparable in

magnitude to the annual new immigrant flow, and that the size of TFW programs has increased greatly over the last 25 years. In 1984 there were approximately 100,000 TFWs in Canada at some point in the year. This number increased during the expansionary phase of the business cycle in the mid-1980s, but then dropped somewhat during the recession of the early 1990s. The numbers grew slowly during the mid- to late 1990s, and then increased massively after 2003. The number of TFWs increased from about 180,000 a year in the early 2000s to over 350,000 in 2008.⁵ Clearly, the magnitude of the flow is increasing and is sensitive to business cycles.

The stock of TFWs present in Canada on December 1st, as seen in Figure 1, is an entirely revised data series in the 2009 publication with a much tighter definition than in previous years’ releases. On December 1st 1984, there were just over 20,000 TFWs in Canada; this increased greatly over the following 25-year period. By 2008, there were over 145,000 TFWs in Canada. The largest increase started in 2004,

On December 1st 1983, there were around 35,000 TFWs in Canada; this increased greatly over the following 25-year period. By 2007, there were over 200,000 TFWs in Canada.

Figure 1
Annual flow and December 1st stock of temporary residents ('000s)



*Total = Initial entry + Re-entry + Still present

Source: Citizenship and Immigration Canada (2009).

likely reflecting the greater demand for foreign labour in Canada, particularly in Alberta, Ontario and British Columbia, and the Federal government's change in procedures, the expansion of programs and the loosening of restrictions on hiring foreign workers. Although the number of TFWs has risen considerably over the past 25 years, it is likely to fall now that Canada has entered a recession, the unemployment rate has increased, and as the demand for labour decreased. If it does not, then it would be worth looking more carefully at the operation of the Labour Market Opinion process.

Potential costs and benefits of TFW programs

With the expansion of TFW programs, it is increasingly important to assess what role these programs play in the Canadian economy. Of course, these roles and their benefits may well change over the business cycle. Although the various TFW programs differ in many respects, the common theme of the more formalized programs is that they bring foreign workers to Canada to fill labour shortages, and the goal in doing so is to allow the economy to operate more efficiently. However, remarkably little is known about the impact of TFW programs on the Canadian economy.

In the absence of direct evidence, the related research focusing on permanent immigrants might provide useful insight on the matter. This literature finds mixed results for both labour market integration and the economic impact of immigrants on the domestic economy. In terms of integration, as is well known, new immigrants' labour market outcomes have declined appreciably during the past two decades or so. Moreover, a reasonable average of the

various views regarding the current impact of new immigration on the domestic economy would be the following: "small and positive." See Sweetman and Warman (2008) for a discussion of the relevant research literature pertaining to both these issues.

Gauging the impact on the domestic economy of TFWs based on the impact of immigrants in general might, however, not be fully informative, given the very different selection processes involved, as well as the different roles these two groups play in the Canadian economy. Furthermore, TFWs have a more exclusively economic rationale, whereas permanent immigration is also motivated by humanitarian, family and other social and nation-building priorities, where economic implications are sometimes only an ancillary consideration. The added complexity of the new, and yet to be experienced, Canadian Experience Class makes understanding the situation in the future even more difficult.

Overall, it seems plausible that TFW programs could yield greater economic benefits and pose greater risks than might permanent immigration. It holds the possibility of having both greater positive and negative spillovers and/or externalities capable of impacting the domestic economy. The Context, as well as quality of management, probably matter more in terms of TFW programs than they do for permanent immigration.

Fundamentally, and as with permanent immigration, assessing the impact of TFWs presupposes determining whether these workers act as complements to existing factors of production – for example, by reducing bottlenecks in the economy – or as substitutes. Of course, it is likely

that many TFWs are both complements and substitutes in various sectors of production, and the net effect varies across the population. Hence economic actors with different perspectives may, quite justifiably, have different interests and have very different views on the impact that TFW programs have on them. One key concern on which the government has historically acted is the fear that TFWs might displace domestic workers and bid down wages for permanent residents. TFWs are therefore usually required to obtain a Labour Market Opinion to ensure that there are no Canadians available to perform the job in question at the going rate. There remain, however, those who argue that TFWs compete with Canadians for jobs, thereby exerting downward pressure on wages and increasing unemployment. More subtly, for example, Green (2003), referring to immigrants, suggests that bringing in high-skilled workers in particular may dissuade Canadians from seeking advanced training. By filling jobs that are in high demand, especially high-skilled jobs, the presence of TFWs may distort market signals, and relative prices, and discourage Canadians from obtaining the required human capital necessary to be eligible for such occupations.

The Regional Lists of Occupations Under Pressure (ROUP) list was created in December 2006 to make it easier for employers in occupations that had immediate shortages to bring in TFWs, mainly by reducing the advertisement requirements.⁶ Starting in January 2009, the ROUP list was replaced by national advertising requirements that depend on broad skill levels based on the National Occupational Classification (NOC). It is also unclear what the effect these changes will have on Labour Market Opinions in terms of the length of time that employers are required to advertise positions in order to qualify for some programs.

Concerns have also been voiced about how well TFWs are treated in Canada, with some suggesting that since many TFWs are tied to the job that is specified by their work permit and lack rights in Canada, they are left vulnerable to exploitation by employers.⁷ This problem will likely not affect the high-skilled TFWs, but is a concern for TFWs working in less-skilled occupations. Furthermore, the potential for exploitation may have grown in the mid-2000s, with the increased number of less-skilled jobs covered by the programs. Another consideration is how well TFWs perform in Canada in terms of occupational outcomes. In the next section, we examine some empirical research that suggests that TFWs labour market outcomes are quite strong.

Research on the economic outcomes of TFW programs

Unlike the large body of research documenting the economic outcomes of immigrants, there is little recent literature that examines the outcomes of TFWs in Canada.

However, the literature that does exist suggests that TFWs have been very successful, particularly compared to recent immigrant cohorts. Using Census data, Warman (2009) finds that weekly earnings of male TFWs are much higher than those of recently landed immigrants. Female TFWs also have a positive earnings advantage compared to recently landed immigrants (with homemakers being excluded in both cases). Warman (2010) examines the economic rate of return to foreign labour market experience for male TFWs relative to cohorts of recent male immigrants. In accord with previous research (Schaafsma and Sweetman 2001, Aydemir and Skuterud 2005), Warman finds that recently landed immigrants do not benefit financially from their years of foreign work experience, whereas such economic returns are an extremely important element of wage growth over the life cycle for the Canadian-born. Conversely, he finds that male TFWs have large positive economic returns to foreign labour market experience. Further, male TFWs receive higher economic rates of return to their foreign education than do recently landed immigrants.

Turning away from particular characteristics, TFWs appear to reach substantial economic success in the Canadian economy, although the nature of the programs through which they enter induces some important heterogeneity. Without conditioning on characteristics, Warman (2009) finds that the average total employment earnings for TFW men are higher than they are for Canadian-born men. For women, the reverse is true. But a very large portion of female TFWs are in Canada by virtue of the Live-in Caregiver Program, and once that occupation is removed from the sample, the same pattern then emerges.

Unfortunately, since positive externalities are a driving motivation for TFW programs, we know of no research that looks at the impact of these programs on the Canadian economy. It is worth noting that a complete analysis of this issue would need examine not only labour market impacts, which are most commonly studied with respect to immigration issues, but also at other benefits, such as those pertaining to consumers (in the form of final product prices), government fiscal issues, and especially those accruing to the owners of capital. The effects of TFW programs on international trade are also a complex, but potentially sizeable, issue.

Canadian Experience Class

One potential (though controversial) benefit of the high-skilled programs is that these initiatives can assist in the selection and retention of those high-skilled workers who will be successful as permanent residents.⁸ This, however, was not the original intention or role of TFW programs. Nevertheless, the new Canadian Experience Class allows some highly skilled temporary residents to apply for permanent residency. This Canadian Experience Class is

There is little recent literature that examines the outcomes of TFWs in Canada. However, the literature that does exist suggests that TFWs have been very successful, particularly compared to recent immigrant cohorts.

similar to, yet distinct from, skilled workers programs, and is part of the Economic Immigration Class.

We previously suggested that TFW programs are designed to meet economic goals. However, with the introduction of the Canadian Experience Class, it can be argued that high-skilled TFW programs now also have a substantial nation-building component. This new policy took effect in September 2008 and acts as a bridge from temporary to permanent resident status for certain high-skilled TFWs (as well as for some former international students).⁹ By attracting foreign residents who have already (presumably) experienced success in the Canadian labour market (although success is not a criterion), and whose skills are in demand, the difficulties that many recent immigrants have experienced in transferring their pre-immigration human capital should be alleviated.

In order to be eligible, TFWs must have acquired 24 months of work experience over a 36-month period immediately prior to submitting their application. The work experience needs to be either in managerial or in professional occupations (NOC O or A), or in technical occupations or skilled trades (NOC B). Applicants are also required to have minimal language abilities, depending on the occupation in which they are employed.¹⁰ The TFWs are allowed to submit their application within Canada while currently employed, or can apply within one year. The evaluation under the Canadian Experience Class is a pass/fail decision, which contrasts sharply with the assessment of principal applicants under the Skilled Worker Program, which is based on a points system.

Given that the program was only recently introduced, it will take some time for data to become available and to enable us to evaluate its success. However, Sweetman and Warman (2009) examined the Longitudinal Survey of Immigrants to Canada in order to determine how well immigrants who had previously been in Canada on a work visa (or on a student visa) performed in the Canadian economy relative to immigrants without any pre-immigration Canadian human capital. Of course, these former TFWs prior to the existence of the Canadian Experience Class, so the context has shifted and the results, while informative, do not describe the current policy framework.

Sweetman and Warman find that most of the former male TFWs subsequently entered as skilled worker principal applicants (approximately 85%). With respect to female TFWs, most also entered as skilled workers, but the breakdown was evenly split between principal applicants (43.6%) and dependents and spouses (43.6%). Restricting the sample to skilled worker principal applicants, who have the best labour market outcomes among new immigrants, male

TFWs were found to have much better employment and earning outcomes relative to people with no pre-immigration Canadian human capital. This advantage attenuated over the four years covered by the data, but remained very appreciable for males four years after landing. Former female TFWs also had better outcomes, but the advantage was not as important as that experienced by male TFWs, and it was reduced to statistical insignificance by the fourth year. However, the standard errors were quite large for the females and an advantage of as much as 15% to 20% would not have been statistically significant for this sub-group. Although the sample of TFWs in this study differs considerably from the TFWs selected under the Canadian Experience Class, the results suggest that selecting immigrants who have already acquired Canadian work experience will likely be a successful selection mechanism for achieving satisfactory labour market outcomes for new immigrants.

Conclusion

The size and role of the TFW programs have expanded over the past 25 years. Recent policy changes that have made it easier for employers to hire TFWs will undoubtedly increase the importance of these workers in the future, although the current recession will have the opposite effect. Future research attention should focus not only on the labour market outcomes of TFWs, but also on the impact of TFWs on the economy more broadly. Also, the nature of the program may alter dramatically over business cycles, and this needs to be kept in mind not only in framing future research, but also in the interpretation of previous results.

We highlight some research that suggests that TFWs have strong economic outcomes in Canada, and that immigrants who had acquired Canadian work experience prior to applying to immigrate were also very successful in terms of employment and earning outcomes.

However, future studies clearly need to track the progress and success of immigrants entering under the Canadian Experience Class. This is a major new initiative. Like the TFW programs, it has the potential of yielding greater benefits but which may also present greater risks. Similarly, the economic impact of this new class may alter appreciably across business cycles.

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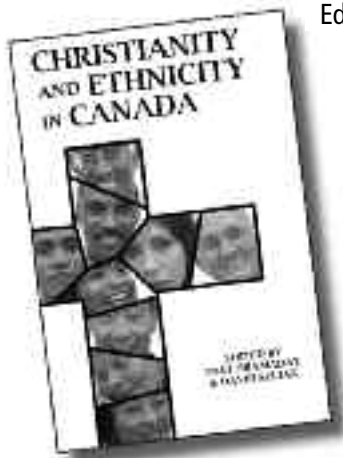
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Notes

- ¹ See Sweetman and Warman (2006) for more details on these programs.
- ² Some observers, and some government statistics, appear (at least implicitly) to define TFWs as including only those foreign residents who hold a work permit. We view this as too narrow a definition and one that can be misleading for policy. Also, we have little information about which work permits actually result in the individual obtaining employment in Canada.
- ³ See Warman (2010) for more details on the various programs.
- ⁴ The TFWs may also hold other permits, such as a student visa, but they are defined as TFWs since the main reason for their being in Canada is employment.
- ⁵ In comparison, the Canadian population increased from about 25.2 million people in the first quarter of 1983 to 32.7 million in 2007. The increase in entries of TFWs has been much more rapid.
- ⁶ Initially Ontario, Alberta and British Columbia were the only provinces participating, but in 2007, the list was expanded to include Prince Edward Island, Nova Scotia, Quebec and Manitoba.
- ⁷ For example, see "The Americas: Not such a warm welcome; Canada's guest workers." *The Economist*, November 24, 2007, p. 67.
- ⁸ TFWs, both high-skilled and less-skilled, can also gain permanent resident status under the Provincial Nominee Program. As well, domestic workers can gain permanent resident status under the Live-in Caregiver Program.
- ⁹ Former international students require completion of a two-year degree followed by one year of Canadian work experience in either NOC O, B or A occupations, as well as minimum language requirements, depending on the occupation.
- ¹⁰ Workers with NOC O or A occupations require moderate language ability in English or French, while workers with NOC B occupations require basic language ability.

CHRISTIANITY AND ETHNICITY IN CANADA

Edited by Paul Bramadat and David Seljak



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REARRANGING THE DECK CHAIRS? A CRITICAL EXAMINATION OF CANADA'S SHIFTING (IM)MIGRATION POLICIES

ABSTRACT

This article explores the recent shifts in directions in immigration policy, from nation builders (permanent residents) to economic units (temporary workers), in response to the challenge of matching the selection process to the labour market and the labour market's failure to fully utilize many of Canada's more skilled immigrants. Through an exploration of some of the policy changes that have taken place in Canada over the past 10 years, and the reasons policies have shifted, this article concludes that (im)migration policies are being revised and changed to address problems that are not fully understood. Without proper evaluation of current and past policies, such policy changes blur our understanding of where the gaps and issues lie in the system and how to address the real needs.

Immigrants as nation builders

Canada has often been described as a nation of immigrants. In 2007, nearly 20% of the country's population was born outside of Canada, and each year about 240,000 immigrants arrive with permanent residence status (0.72% of the population) (CIC 2007a). It is projected that by 2012, all of Canada's net labour market growth will come from immigration, and that by 2030, all of its population growth will be due to immigration (HRSDC 2007).

The original immigration points system of 1967 was revised in 2002 under the *Immigration and Refugee Protection Act* (IRPA), with the premise that in a knowledge-based economy, with a rapidly changing labour market, it would be too difficult to match people's skills with specific occupations in demand. The revised and current points system (which has changed again with Bill C-50) is based on the human capital model that assesses immigrants' potential ability to establish themselves successfully through high levels of education, training, experience and language skills. Essentially, it rewards immigrants with the generic skills expected to allow them to adapt in a changing labour market.

Immigrants to Canada come from all over the world, with top-source countries being China (14%), India (11.6%), Philippines (7%) and Pakistan (5.2%). Over 70% of all working age (15 to 65 years of age) immigrants in the recent past hold some post-secondary education (Statistics Canada 2007b, 2007a). Specifically, economic immigrants enter Canada based on their educational credentials, work experience and language abilities (Statistics Canada 2007a) 92% of which have a post-secondary education (CIC 2007a).¹ Expecting that the very education and skills that got them into Canada would be utilized, many immigrants are deeply disappointed once they arrive and face only limited prospects for success.

Poor employment outcomes

Despite the high education levels of immigrants to Canada, many immigrants are underemployed and unemployed, while highly skilled jobs remain vacant. In 2006, the unemployment rate of very recent university educated immigrants was four times that of the university educated Canadian born and in Ontario, the unemployment rate of all immigrants was 2.5 times higher than that of Canadian born Ontarians (11% vs. 4.4%) (Gilmore 2008). Further, very recent university educated immigrants had an unemployment rate similar to very recent immigrants holding only high school education (Zietsma 2007). Immigrant communities are facing greater incidences of poverty, despite having higher levels of education than Canadian-born; and labour market outcomes for immigrants are only improving marginally with time in Canada (Statistics Canada 2007b). Some of the major barriers faced by recent immigrants are lack of foreign credential recognition, language barriers, lack of Canadian experience and employment and racial discrimination (Statistics Canada 2005).

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Immigrants and employers are disappointed, and labour market shortages persist. Frustrated employers, needing workers, have pressured government for new, more responsive policies. With this, and the growing concern over immigrant underemployment and poverty, immigration policy has been placing increasing emphasis on (im)migrants as economic units – not nation builders – and fixing selection criteria in the hope that immigrants will be better equipped to succeed more quickly in the economy.

The data sets being used to analyze the labour market success of immigrants do not necessarily reflect the impact of more recent (im)migration policies. This presents a major challenge, since Canada is trying to fix the selection criteria for immigrants without fully understanding what is going on in the current context. For example, the discrepancies in employment rates of immigrants and Canadian-born, published by Statistics Canada through the Labour Force Survey (2007), show that very recent immigrants (who landed in Canada between 2001 and 2006) have high unemployment rates, regardless of high levels of education. Unfortunately, this mixes immigration flows under the revised IRPA points system (2002) with those coming before 2002. This data has been used to critique Canada's 2002 IRPA and to recommend change to it without sufficient data to fully understand the impact of the 2002 changes.

Given that the backlog at the time of the 2002 IRPA changes was at least 3-4 years, it is unlikely that many (if any) immigrants who came to Canada by the 2006 Census would have applied after the changed system. In addition, the labour market outcomes that are analyzed are for *all* categories of immigrants, not simply the 17% of economic immigrants who come to Canada through the points system. Poor labour market outcomes have been identified for all immigrants, yet the debate that continues to emerge has been about the mismatch of Canada's points system, the failure of economic migrants and the need to change the system.

Another change is the recently passed Bill C-50, which allows the Immigration Minister to identify which applicants coming under the points system are given priority based on designated key shortages in the labour market. Bill C-50 has been promoted as a way to address the large backlog of applicants waiting abroad and make the immigration system more flexible and responsive to changing labour market needs. At the same time, the expansion of temporary migration programs and provincial nominee programs is

further evidence of a rapidly changing policy climate reacting to the perceived "failings" of the current immigration system.

The "rapidity of policy developments reflects, above all, [...]the importance of immigration to Canada as a nation-state. Immigration is constantly in the news, and there is a kind of permanent restlessness about improving both selection systems and settlement outcomes. Policies therefore sometimes evolve faster than their impacts can be fully appreciated" (Birrell, Hawthorne, Richardson 2006: 211). Again, it appears that we are trying to fix what is broken, without really understanding what parts need fixing.

Frustrated employers, needing workers, have pressured government for new, more responsive policies. With this, combined with the growing concern over immigrant underemployment and poverty, immigration policy has been placing increasing emphasis on (im)migrants as economic units – not nation builders – and fixing selection criteria in the hope that immigrants will be better equipped to succeed more quickly in the economy.

Rearranging the chairs

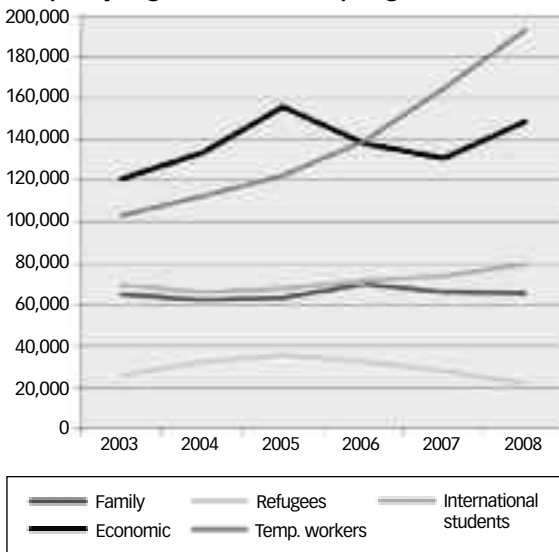
Temporary migration and "two-step" migration

Since skilled immigrants are not contributing to their full potential, and labour market shortages persist, new selection programs and procedures need to be considered. The structure of Canada's immigration program has been changing dramatically over the last few years, with increasing emphasis on a labour market driven immigration program. Recent immigration policy shifts may be seen as an indirect way of addressing Canada's problems in recognizing international credentials and experience. There has been greater uptake, expansion and support for employer-driven programs such as Provincial Nominee Programs (PNPs) and Temporary Foreign Worker Programs (TFWPs). Such programs expedite the processing of certain individuals in order to get workers to Canada quickly and directly employed in jobs. A facet of recent (im)migration changes is the push for "two-step" migration programs (Hawthorne 2008), where migrants enter with restricted privileges and must prove successful integration in order to gain access to permanent residency. Already, many of the recent (im)migration policy changes in Canada are having dramatic effects –

with permanent immigrants decreasing in the past four years, while temporary migrants and two-step migrants to Canada are rapidly increasing (see Figure 1).

The most sought after 'two-step migrants' are international students, who are said to be a type of 'designer immigrant' in that they are able to avoid some of the hurdles faced by skilled immigrants – e.g. the non-recognition of international credentials and skills, and concerns over language and communication abilities (Simmons 1999). Canadian (im)migration policy has been changed to recruit and retain these ideal two-step migrants.

Figure 1
Temporary migrants and two-step migrants to Canada



Source: *Facts and Figures 2008*, Citizenship and Immigration Canada.

Changes allow international students more flexible employment privileges and make Canada a more desirable place to study and (it is hoped) to settle permanently. The introduction of the Off-Campus Work Program (OCWP), launched in 2006, makes Canada a more appealing study destination for international students as they are now authorized to work up to 20 hours per week during regular academic sessions and full-time during scheduled breaks (CIC 2007b). Even more recently, in April 2008, the Post-Graduation Work Permit (PGWP) Program changed and international students of two-year or longer degree programs can obtain an open work permit with no restrictions on the type of employment and no requirement for a job offer. In addition, the period of the work permit has been extended from one (sometimes two) to three years. The addition of the OCWP and the improvements to the PGWP represent changes that will no doubt make Canada a more attractive destination for international students (CIC 2008a).

These changes are expected to provide international graduates with the time and flexibility to gain Canadian work experience and the opportunity to apply under the newly launched (September 2008) Canadian Experience Class (CEC). The CEC allows those who have entered the country under temporary worker or international student categories to remain in Canada as permanent residents, so long as they meet certain education, language and skill requirements. To qualify for the CEC, international student graduates need to hold a post-secondary diploma or degree that required at least two years to complete, pass Canadian Language Benchmarks (level 5 or 7 depending on the job), and to have one year of recent (within two years before applying) full-time employment in Canada at the National Occupational Classification (NOC) skill level 0, A or B (management, professional, and skilled and technical jobs) (CIC 2008b). For temporary workers, there are similar criteria, which will restrict permanent residency through this route to those employed in highly skilled jobs who have demonstrated that they can succeed.

In a November 2007 Parliamentary Session on immigration issues, Diane Finley, Immigration Minister at the time, expressed how the CEC is a “two-way street [...] and] the prospect of eventual Canadian citizenship gives us a marketing advantage as our schools and our employers look to recruit the best and the brightest from around the world”. This new immigration route, coupled with other (im)migration policy shifts may displace Canada’s traditional permanent residency program. By placing more focus on decentralized two-step migration processes, migrants must prove successful integration in order to gain the prospect of remaining permanently in Canada. This may also have a significant impact on how settlement services are designed and delivered across Canada, with universities, colleges and employers playing a larger role in settlement support, without necessarily having the resources and expertise.

Despite the creation the CEC, the total number of permanent residents admitted will not increase – targets for those entering under the points system have been reduced by approximately 15% to make room for CEC applicants (Cohen 2007). This reduction will mean that 10,000 to 12,000 skilled worker applicants waiting abroad to be processed will not be admitted each year – and this will further extend their processing times. According to CIC projections, by 2012, an increase of 426% for the CEC applications may contribute to a 73% reduction in the number of Federal Skilled Workers entering Canada (CIC 2008 annual report, as cited in OAG, 2009). The results of a long backlog in our immigration system are not fully understood, but anecdotally, we know that by the time highly skilled immigrants with experience get to Canada, their technical skills may be diminished because they have been working at the managerial level for so long or they have been out of their profession waiting to come to Canada. Long immigration processing times can have severe impacts on Canada’s long-term ability to recruit, retain and integrate highly skilled immigrants into the labour market.

Moreover, the criteria upon which potential immigrants are being evaluated for the CEC may result in a serious gap in Canada’s ability to retain qualified immigrants. The NOC skill requirements for the CEC are based on the job the worker possesses, not the actual skills and qualifications migrants possess. Since there is no clear assessment and recognition system to ensure that temporary migrants are employed at their skill level, this may result in a serious mismatch between the level of employment and migrants actual qualifications. More concerning, an overqualified temporary migrant or international student working at the NOC C or D level will be ineligible to qualify as potential immigrants through the CEC.

(Im)migration changes not addressing systemic issues

The rapidly shifting (im)migration policies in Canada are an attempt to react to and overcome disconnects apparent in current policies and practices affecting immigrants. In essence, recent changes in (im)migration policy are an attempt to recruit and retain the ‘right immigrants’ with the underlying assumption that “only the immigrant needs to adapt and change” (Shakir 2008). Rather than looking at how institutional structures and societal attitudes and practices need to change, policies have reacted to what immigrants are

seen to lack – and this has been happening so quickly, that it is impossible to see the results of recent changes to (im)migration policies, and to identify where the remaining gaps lie and what still needs to change.

Rapidly shifting (im)migration policies to create new, and seemingly better categories of immigrants do not address the underlying issues plaguing the bulk of immigrants to Canada. These include lack of recognition of foreign credentials and experience for educational purpose and employment, unemployment and underemployment, employer attitudes, racism and discrimination. Furthermore, as a faster route to come to Canada, temporary migrants of all skill levels are filling permanent and necessary jobs and should be able to stay permanently as well. We need to re-conceptualize our immigration system as critical to nation building and see all immigrants as important contributors to the long-term well-being of the economy and society. Migrants of all skill levels should have access to simple permanent immigration routes, such as the CEC.

We know that early support for newcomers in the community has strong labour market integration outcomes, as evidenced by the extra service support and social networks that refugees and family class migrants have over other economic migrants. Due to this, refugees and family class migrants do better than other immigrants in the economic class (except principal applicants under the points system), especially in their first years in Canada (Zietsma, 2007). Temporary migrants are not eligible for many services available to immigrants to assist with settlement until they are actually granted permanent residence (or are approved in principle for permanent residency, but have not yet completed their processing). Looking at service provision in the early stages may have both short and long-term impacts on their success and integration into the labour market and society at large. Temporary workers who come in under the live-in caregiver program are eligible to receive settlement services, so a case can be made that those who come in under other temporary worker programs should also receive support.

Even with highly skilled two-step migrants coming to Canada temporarily and remaining, many systemic issues will persist and new issues will arise. We need to support long-term economic success and nation building through a strong permanent immigration program, and by addressing the more fundamental and systemic issues of non-recognition of foreign credentials, discrimination and unfair access. We have the tools, expertise and resources to address these systemic issues, and a few great programs and services already exist. By learning from other existing programs, supports and services, we need to ensure that the conditions exist for the full integration and participation of all (im)migrants in Canada.

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Note

- ¹ By comparison, 43% of Canadian adults have a post-secondary education.

FOREIGN WORKER RECRUITMENT AND PROTECTION

The Role of Manitoba's *Worker Recruitment and Protection Act*

Immigration has become one of the major policy responses for population and labour force growth in Manitoba. In the third quarter of 2008, for example, Manitoba's population was estimated at 1,212,000 people, with the increase in growth attributed mainly to international immigration (Manitoba Bureau of Statistics 2008). From 2000 to 2008, Manitoba received a total of 68,036 immigrants. This record-high immigration level is significant beyond Manitoba. Nationally, Manitoba's 2008 immigration of 11,221 newcomers represented 4.6% of Canada's total immigration. This contrasts with the mid- to late 1990s when Manitoba received less than 2% of immigrants to Canada (see Table 1).

In addition to permanent residents, temporary residents are becoming a significant component of Manitoba's immigration and population mix as temporary foreign workers (TFWs) and students are eligible to apply for permanent residence through the Manitoba Provincial Nominee Program (MPNP) after having worked for six months or graduated from a post-secondary education program in Manitoba. For example, in 2007, Manitoba received 4,288 temporary residents compared to 3,626 in 2006, representing an increase of 7.8%.

The hiring of TFWs in particular has become quite significant as employers are increasingly using this option to address labour and skill needs. The increased flow of TFWs to the province, however, has also heightened the need to protect them from unscrupulous recruiters and employers. Manitoba policy priority is to strengthen ethical and planned recruitment initiatives of TFWs and through *Worker Recruitment and Protection Act*.¹ This article provides an overview of this legislation and how it seeks to assist in the recruitment and protection of foreign workers in Manitoba.

Policy and program context

Manitoba's immigration policy is rooted in the Manitoba government's Action Strategy for Economic Growth (Action Strategy). The Action Strategy established *Growing Through Immigration* as one of seven growth pillars for the province, and set a target of receiving 10,000 immigrants in 2006. This target was achieved and has subsequently been renewed to 20,000 newcomers annually by 2016. The Action Strategy also emphasizes enhanced settlement services and English as an Additional Language training programs, effective labour market integration strategies, and the importance of welcoming communities.²

Manitoba's most dynamic tool in its immigration program is the Manitoba Provincial Nominee Program. Established in 1998 through the Canada-Manitoba Immigration Agreement (CMIA), it defines the respective roles of the province and Canada.³ Manitoba selects and nominates skilled worker applicants with the strongest potential to settle permanently and successfully in the province. Applicants must demonstrate strong connections to the province through employment, education, family and friends.⁴ Manitoba also has the authority to design and deliver its own settlement programs to meet the changing needs of immigrants and refugees coming to the province.

As shown in Figure 1, the MPNP has been Manitoba's main tool for immigration, accounting for more than half of the province's annual total immigration since 2004. Provincial nominees accounted for 33% of Manitoba's overall immigration in 2002 and their numbers more than doubled by 2008, reaching 71%. Nationally, Manitoba received more 35% of all provincial nominees in 2008.

Going forward, Manitoba will continue to work in partnership with key stakeholders to increase immigration to the province to 20,000 annual arrivals by 2016, continue implementation of the province's dynamic settlement and welcoming communities' initiatives, improve recognition of international qualifications, expand regionalization efforts outside of Winnipeg, and enhance the recruitment and protection of foreign workers. The following sections of this article concentrate on Manitoba's innovative approach to enhance the recruitment and protection of foreign workers to the province through the *Worker Recruitment and Protection Act*.

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Nancy Allan is the former Minister of Labour and Immigration for Manitoba and current Minister for Education, Minister Allan was elected to the Manitoba Legislature in 1999, and has served in Cabinet since 2003. She was a member of Manitoba's Legislative Assembly Management Committee and Legislative Assistant to the Minister of Education and Youth, and to the Minister of Culture, Heritage and Tourism.

Table 1
Manitoba immigration levels, 1999-2008

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Economic class	1,906	2,615	2,331	2,689	4,072	5,000	5,725	7,375	8,330	8,699
Family class	1,025	952	1,097	949	1,119	1,116	1,192	1,332	1,343	1,404
Refugees	771	1,017	1,160	983	1,235	1,252	1,094	1,241	1,170	972
Other	-	-	-	-	66	59	86	103	112	146
Manitoba – Total (% of Canada)	3,702 (1.9)	4,584 (2.0)	4,588 (1.8)	4,621 (2.0)	6,492 (2.9)	7,427 (3.1)	8,097 (3.0)	10,051 (4.0)	10,955 (4.6)	11,221 (4.5)
Canada – Total	189,835	227,346	250,484	229,091	221,352	235,824	262,236	251,649	236,758	247,243

Source: Citizenship and Immigration Canada (prepared by Manitoba Labour and Immigration).

Manitoba's temporary foreign worker flows

Over the past decade, TFW flows to Manitoba have continued to increase as a result of employers' need for off-shore workers. In 2008, TFW flows to Manitoba increased to 4,192 from 3,926 in 2007, representing an increase of 6.8%.

TFWs come to Manitoba through the federal government's Temporary Foreign Worker Program (TFWP), which is jointly managed by the departments of Human Resources and Skills Development Canada (HRSDC) Service Canada and Citizenship and Immigration Canada (CIC). Eligible foreign workers can work in Canada for an authorized period of time if employers can demonstrate that they are unable to find suitable Canadians or permanent residents to fill the jobs and that the entry of these workers will not have a negative impact on the Canadian labour market. Some of the factors considered before Service Canada issues a Labour Market Opinion include:

- The occupation in which the foreign worker will be employed;
- The wage and working conditions offered;
- The employer's advertisement and recruitment efforts;
- The labour market benefits related to the entry of the foreign worker; and
- Consultations, if any, with the appropriate union.⁵

Measures to address worker vulnerability

To maximize the economic and social benefits of TFW flows to the province, Manitoba has developed approaches to facilitate their retention. As noted before, TFWs can apply to the MPNP after working for six months and if they have a full-time job offer from their employer. While offering pathways to permanent immigration is one factor in a sustainable immigration strategy, Manitoba also recognizes that TFW movements are enhanced by offering greater protections to ensure their experiences in the province are positive.

As TFW movements increase in Manitoba, as well as across Canada, situations highlighting their vulnerability have been increasingly publicized by the media. Some of these situations include (Alberta Federation of Labour 2007, Standing Committee on Citizenship and Immigration 2009):

- Exorbitant fees being charged to TFWs for employment placement;
- Contract requirements not being upheld;
- Immigration status being used to coerce TFWs;
- Inaccurate information regarding the Provincial Nominee Program and eligibility for permanent status; and
- Inaccurate information regarding labour and workplace safety and health legislation.

These scenarios have made increasingly clear the importance of expanding labour legislation and, more importantly, of protecting all workers under this legislation.

To address these challenges, Manitoba passed the *Worker Recruitment and Protection Act* in April 2009 to regulate foreign worker recruitment activities, place the provincial government at the front-end of foreign worker recruitment and reaffirm the Province's commitment to ensuring that workers are not charged for finding employment.

Prior to the *Worker Recruitment and Protection Act*, the *Employment Services Act* had governed the activities of third-party placement agencies in Manitoba. The *Employment Services Act*, however, had not been reviewed or amended since 1987 and pre-dated the increase in numbers of talent, acting and modeling agencies recruiting women and children, the growth of the human trafficking industry, and the significant increase in off-shore recruitment activities by third-party representatives. Based on consultations with employers and other affected parties, Manitoba modernized the *Employment Services Act* to reflect the dramatic changes that have taken place in the worker recruitment business.

The Worker Recruitment and Protection Act provides a framework for a positive, sustainable recruitment process that will provide businesses with access to reliable skilled temporary foreign labour as well as respond to issues of temporary foreign worker vulnerability.

**The Worker Recruitment and Protection Act:
An overview**

The *Worker Recruitment and Protection Act* (WRAPA) provides a framework for a positive and sustainable recruitment process that will provide businesses with access to reliable skilled temporary foreign labour and will respond to issues of TFW vulnerability.

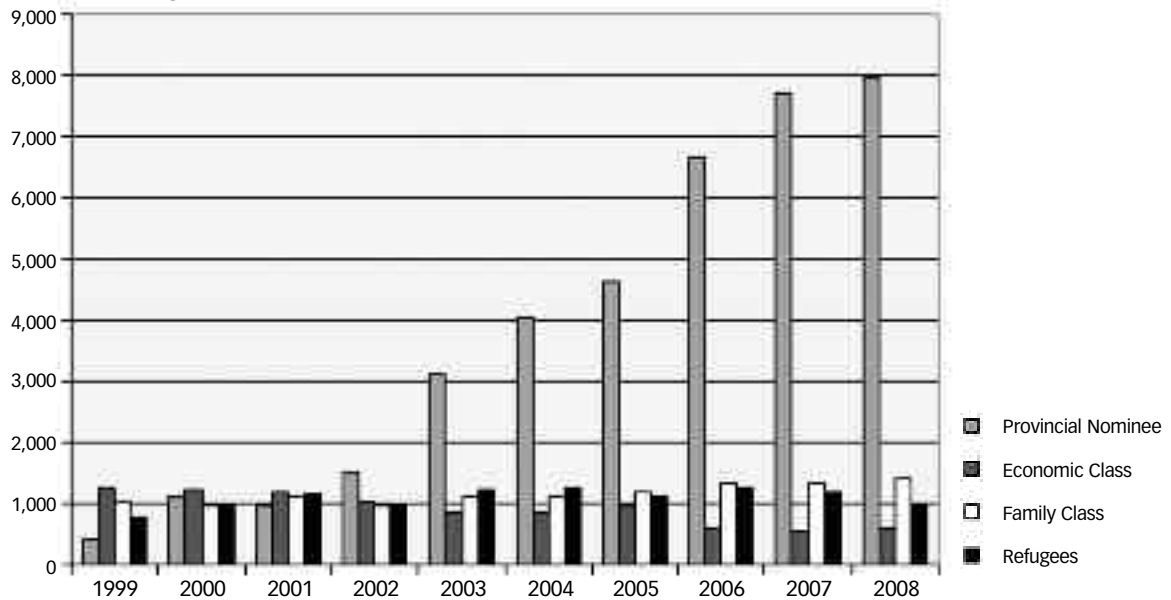
The WRAPA expands employment standards coverage to encompass the protection of foreign workers from unscrupulous recruiters and employers. Under the WRAPA, all employers are required to register with the Province before the recruitment of foreign workers begins. The registration would ensure that employers are using a licensed recruiter and have a good history of compliance with labour legislation. Additionally, recruiters must be licensed and are prohibited from charging workers, directly or indirectly, any fee whatsoever for recruitment.

The objectives of the WRAPA are:

- To modernize the existing employment services legislation and clarify the fundamental concept that employers, not workers, are responsible for the costs of recruitment.
 - Improve the enforcement mechanisms to ensure a level playing field for employers who use employment agencies for their recruitment activities.
- To establish a clear role for the Province at the initial stages of the foreign worker recruitment process to ensure a simplified and sustainable process to meet the needs of both employers and foreign workers.
 - Employers bringing foreign workers to Manitoba will be required to register with the Province through a single-window access point for TFW and permanent immigrant recruitment.

- To obtain a registration certificate, employers must have a good compliance history with provincial employment standards and with workplace safety and health requirements.
- Employers contracting with a foreign worker recruiter must provide the name of the licensed recruiter as part of the registration process.
- To regulate the activities of recruiters of foreign workers.
 - Individuals and agencies recruiting foreign workers are required to hold a licence. To obtain a licence, a recruiter of foreign workers must be a member of the Canadian Society of Immigration Consultants or a law society of Canada and provide a \$10,000 irrevocable letter of credit.
 - Any recruiter who is regulated through international agreements entered into with the Province of Manitoba would be exempt from the licensing requirements.
 - Recruiters of foreign workers will be prohibited from charging workers fees for recruitment. Canadian recruiters will be held liable for any fee or charge made to a foreign worker by the recruiter or anyone with whom the recruiter subcontracts.
- To expand compliance measures to protect workers from non-compliant employers and unscrupulous and unregulated employment agencies.
 - Manitoba’s Employment Standards Division will have the authority to refuse or revoke a licence, to investigate, and to recover money, on behalf of the worker, from employers and recruiters who attempt to charge employees the costs of recruitment.

**Figure 1
Manitoba immigration levels, 1999-2008**



Source: Citizenship and Immigration Canada (prepared by Manitoba Labour and Immigration).

Table 2
Manitoba temporary foreign worker flows, 1998-2008

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Winnipeg	1,997	1,881	1,771	1,420	1,240	1,302	1,400	1,761	2,150	2,009
Other Manitoba	797	896	884	871	663	853	1,020	1,237	1,776	2,183
Total	2,794	2,777	2,655	2,291	1,903	2,155	2,420	2,998	3,926	4,192

Source: Citizenship and Immigration Canada (prepared by Manitoba Labour and Immigration).

- To protect foreign workers from changes to the promised job conditions, the terms of employment that were agreed upon as part of the foreign worker being allowed to enter Canada will become the minimum standard and enforced by the Employment Standards Division.
- If a foreign worker does not fulfill his or her contract and terminates employment without cause, the employer will be allowed to recover the costs of recruitment on a pro-rated basis.

Information exchange related to temporary foreign workers

While Manitoba anticipates that the WRAPA will address the problems encountered by TFWs following the introduction of necessary provisions related to licensing, registration and enforcement, one of the significant challenges the regulatory framework does not address is the lack of information Manitoba currently receives related to TFWs' movements into the province. To address this issue, Manitoba and Canada, in April 2008, announced the development of an agreement, through a Letter of Understanding (LOU), to exchange information and strengthen protections for TFWs. Under the terms of the LOU, where a direct link and purpose can be demonstrated to Manitoba's legislation, Canada and Manitoba will exchange information.

This information exchange regarding TFWs is critical to Manitoba's ability to provide protections to this vulnerable group of workers through the monitoring and enforcement of employment standards, workplace safety and health, construction industry wages and current employment services legislation. It will also aid Manitoba in undertaking education and awareness campaigns about labour and workplace safety, health rights and responsibilities for temporary residents and their employers.

In addition, Manitoba will be better able to assess applications from TFWs for the MPNP and to provide information to TFWs and their employers so that options for permanent residence are made clear. Manitoba will also provide information to Human Resources and Skills Development Canada about those employers and employment agencies that violate provincial laws for the purposes of accepting or rejecting an employer's Labour Market Opinion application.

Conclusion

TFWs are vulnerable to exploitation from third-party recruiters and placement agencies that take advantage of their desire to start a new life and career. Through the *Worker Recruitment and Protection Act*, Manitoba has taken steps to protect foreign workers who come to the province. The legislation will also create a positive, sustainable recruitment process that will provide business with access to skilled labour and respond to issues of worker vulnerability. Through co-ordination of services and legislation, the Province intends to increase overall compliance with employment standards and workplace safety and health legislation, raise the standards of professionalism and conduct among recruitment agencies, and provide a level playing field for legitimate recruitment agencies.

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Notes

- 1 The content of the Act can be found at the following address: <web2.gov.mb.ca/bills/sess/b022f.php>.
- 2 Manitoba's Action Strategy for Economic Growth: <www.gov.mb.ca/finance/budget07/economic_strategy/index.html?index.html>.
- 3 Canada-Manitoba Immigration Agreement: <www.cic.gc.ca/english/department/laws-policy/agreements/manitoba/can-man-2003.asp>.
- 4 Manitoba Provincial Nominee Program: <www2.immigraitemanitoba.com/browse/howtoimmigrate/npn>.
- 5 For more information, see the Human Resources and Skills Development Canada Website: <www.hrsdc.gc.ca/en/workplaceskills/foreign_workers/temp_assessment.shtml>.

SMALL PLACES, BIG CHANGES: TEMPORARY MIGRATION, IMMIGRATION AND FAMILY REUNIFICATION

ABSTRACT

This article explores the impact of migration, immigration and the process of family reunification in Brandon, Manitoba. The community has recently experienced an influx of temporary migrants to fill labour shortages at an expanding pork processing plant. The case is unique because “temporary” does not necessarily mean temporary; many temporary migrants transition into immigrants and reunite with their families.

The impact of transnational migration is far-reaching and transformative in ways often unimaginable, varying amongst perspective and location. The experiences of Brandon, Manitoba, the province’s second largest urban centre and a destination for hundreds of temporary foreign workers (TFWs), could not have been anticipated. The city is in the midst of rapid and unprecedented change, owing to temporary migration initiated by an industrial strategy designed to meet immediate labour needs. In a province that aggressively promotes immigration through its strong Provincial Nominee Program (PNP), the current circumstances in Brandon are considered to be unique. Despite the fact that the majority of newcomers are TFWs, “temporary” does not always mean temporary, and in many cases it means permanent. Though Brandon has already experienced a large influx of “temporary” foreign workers, greater, more visible changes will become increasingly evident in the near future as migrants evolve into immigrants and families reunite.

This article explores the local experience as well as anticipated challenges and opportunities that accompany continued growth. As the number of newcomers increases and diversifies, service provision challenges are likely to intensify. Most notably, there will be increasing demands on the school division, health services and housing. Currently and into the future, the need for family-appropriate dwellings will increase, compounding housing shortages and further challenging the housing sector in the community. It is anticipated that the community will continue to see local business developments arising as new markets emerge. A key concern is the need for increased language supports, since newcomers’ proficiency in English is often initially limited. Currently, a number of local businesses and service providers wish to hire individuals who are fluent in languages other than English, particularly Spanish and Mandarin; this is unprecedented in the city.

The Province of Manitoba has set and reached high per capita immigration targets. In 2007, Manitoba welcomed nearly 11,000 immigrants, of whom approximately 70% were provincial nominees. The Canada-Manitoba Immigration Agreement (CIMA) came into existence in 1996 and serves as the province’s main immigration policy framework. CIMA is one of the first agreements of its kind in the country, outlining an innovative and cooperative arrangement between the federal government and a province, and granting the province increased autonomy and responsibility regarding immigration (Amoyaw 2008). Since the late 1990s, Manitoba has benefited from economic and social growth, partly due to increased immigration. In 2007, immigration to Manitoba represented 4.6% of total immigration to Canada and the province’s 2.6% population growth is largely attributed to immigration. Most newcomers settling in Manitoba make their homes in Winnipeg, but a significant number settle in rural centres such as Steinbach, Brandon and Winkler.

Over the past four years, the number of TFWs migrating to Manitoba to fill labour shortages has doubled. In 2003 there were 1,426 TFW arrivals; this number reached 2,878 in 2007. Interestingly, 45% of TFWs arriving in Manitoba went to communities other than Winnipeg (Manitoba Labour and Immigration 2008). Many of the TFWs arriving in Manitoba enter Canada with the knowledge that they may apply for permanent residency after having worked six months in the province under the PNP. In Manitoba, TFWs are considered a source of permanent immigration, thus contributing to the province’s annual immigration targets. With this option of permanency, there is a fundamental need to reconsider

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how migrant workers are perceived and treated when they arrive through the Temporary Foreign Worker Program pilot project to work in occupations requiring lower levels of formal training (NOC C and D).

Brandon has remained relatively homogenous over time; population growth has been steady, yet low. Today the community is rapidly diversifying and will likely continue to do so in the future as family members join spouses and relatives. Brandon's population has risen from 39,716 in 2001 to 41,511 in 2006 (Statistics Canada 2007). Historically, immigration to Brandon has been low, but in 2007 the community had the highest rate of immigration growth in Manitoba, tripling 2006 levels to 642 newcomers. Thus Brandon has recently become the third destination community in Manitoba after Winnipeg and Winkler (Manitoba Labour and Immigration 2008). It is estimated that if all TFWs and their families stay in Brandon, this will represent an addition of about 5,100 residents to the city by 2011, or approximately 12% of Brandon's 2006 population (Buckaschuk, Moss, and Gibson 2008). Initial estimates from Maple Leaf Foods indicate that over 90% of TFWs apply for provincial nominee status. Family reunification began in the fall of 2007 and should continue, as a large percentage of TFWs receive provincial nominee status.

Maple Leaf Foods has been a large driver of the recent increase of migration and immigration to Brandon. The Maple Leaf hog processing plant in Brandon opened in 1999, and implemented a full second shift in June 2008. The recent second shift expansion has made the Brandon mega-plant the largest Maple Leaf facility in Canada (Maple Leaf Foods 2008). Maple Leaf Foods staffing in Brandon occurs in three streams: domestic, international and salaried. Efforts are made to recruit and hire employees domestically, but national recruitment strategies have been unable to fully meet the company's staff needs. International recruitment of foreign workers began in 2002 with the first group arriving from Mexico. Since then, workers have been recruited from China, Colombia, El Salvador, Mauritius, and Ukraine (Rural Development Institute 2008b). TFW recruitment efforts have resulted in the arrival of approximately 1,000 newcomers. Of the 1,700 employees at the Brandon plant, 60% are international recruits (Boeve and Annis 2008).

Small centres and rural regions face unique challenges in retaining newcomers. Amenities and services associated with large-scale immigration and urban centres may not exist or have the capacity to serve rapidly arising diverse needs (Foster and McPherson 2007). It is therefore critical to have open, trusting and effective communication channels connecting individuals and organizations within a community. It is important that the drivers of migration,

community planners, and service providers communicate to enhance awareness and understanding regarding future plans and the impact of growth. Perspective dictates how changes and needs are viewed; it is often difficult, perhaps even impossible, to fully understand the transformative nature of large scale migration without "putting yourself in somebody else's shoes."

Brandon has benefited from a proactive approach that encourages collaboration and communication across sectors to plan for challenges and needs. To aid the settlement process and increase communication, six Maple Leaf Foods employees have been assigned roles as Community Steering Committee (CSC) liaison officers to serve as a bridge between the company and the community. Each CSC liaison represents one of six settlement priorities: housing, education, health care, transportation, childcare and language and

support services (Rural Development Institute 2008b). Maple Leaf Foods representatives meet regularly with community planners and local service providers to work towards addressing the current and future needs of newcomers and long-time community residents. The Rural Development Institute's Temporary Foreign Worker Dialogue Group brings government, community and academia together to explore community, program and policy needs. Both groups are illustrative of the cooperative approach emerging locally to prepare and plan for the evolving needs of newcomers and the community.

As previously mentioned, the permanent nature of temporary migration in Brandon is unique and attention must be focused on how to meet the needs of individuals as they evolve through migrant/immigrant categories and subsequently reunite with family. However, service providers and community planners encounter challenges related to policy and program regulations based on status and immigrant category. Recent provincial policy

adjustments have enabled local immigrant service providers to increase support for temporary migrants. It is without question that changes and adjustments need to be made to regulations, precluding the provision of support and services to those defined as "temporary." The decision to permanently remain in Brandon will be influenced by initial experiences. When there is nothing temporary about temporary, permanent supports need to be provided or else the community and company will be at risk of being trapped in a cycle of continuous recruitment. Retention rates are directly linked to welcoming communities that have the capacity to successfully absorb newcomers and assist their integration. The interim period between the time that TFWs arrive and the day that they become permanent residents is a time during which the community can impact newcomers' decisions to stay in the area. Community preparedness and

Over the past four years, the number of TFWs migrating to Manitoba to fill labour shortages has doubled. In 2003 there were 1,426 TFW arrivals; this number reached 2,878 in 2007. Interestingly, 45% of temporary foreign workers arriving in Manitoba went to communities other than Winnipeg.

welcoming initiatives are imperative (Rural Development Institute 2008a).

Transnational families, though not a recent phenomenon (Ho 2008), are increasing as industrial and developmental strategies foster reliance on international labour pools (Landolt and Da 2005, McGuire and Martin 2007, Pottinger 2005, Suarez-Orozco, Todorvova and Louie 2002). Globalization, increased immigration, temporary migration, and mobility have left few states static. Migrants to Brandon are often single young men or men with dependants who have remained in their country of origin. The subsequent reunification of spouses and children can be considered a second wave of migration/immigration to the community. Industrial developments in the United States during the 1990s prompted similar patterns of migration to non-traditional immigrant-receiving locales. These destination communities often experience a series of stages influenced and shaped by gender (Hernandez-Leon and Zuniga 2000).

Concern regarding family separation and the presence of relatively high numbers of “single” males has the potential of having long-term repercussions on migrant families and the community. A Manitoba study indicated that factors such as loneliness, differing cultural norms, boredom, anonymity and an increased sense of freedom can sometimes place newcomers at risk. The same study also found that bars become a major source of recreation and social interaction for newcomers (Foster and McPherson 2007). There is local concern that migrants and their families may face domestic strain and possible family breakdown owing to long periods of separation. Family reunification is a goal of many TFWs as they arrive in Brandon; however, two years is a long time to be separated from one’s family, and this may negatively impact family members as they relocate to Canada. In some instances, when families are reunited they no longer function as a single-family unit. In cases of family breakdown, local service providers offer assistance to spouses to ensure that they are able to obtain food and shelter, apply for social assistance and child support, and seek legal aid. These issues require further attention as women and children are put at risk of poverty, social isolation, domestic violence and possible homelessness. An increased understanding of family reunification, associated needs and challenges is timely and necessary (Rural Development Institute 2008c).

In addition to ensuring that basic needs are met, the community is faced with positive challenges related to an increased demand for services. Historically, the Brandon School Division has experienced an annual decline in enrolment and 2007 was the first year without a decline.

There are about 7,000 students in the Brandon School Division. Approximately five new students register per week, compared to the previous average of two per week. The school division has noted that the increase has been gradual thus far, allowing for better settlement and planning. Between May 2008 and June 2009, the Brandon School Division expects to welcome approximately 167 new English as an Additional Language (EAL) students, in addition to the 276 EAL students who are currently enrolled. Without immigration, enrolment from kindergarten to grade 8 would be in decline. With increasing enrolment, adequate physical space is not a concern; however, sufficient programming, resources and personnel are of great concern (Rural Development Institute 2008c).

Immigration is increasing more rapidly than are government resources. The Brandon School Division, like many local stakeholders and service providers, recognizes the need to collaborate and share information to plan holistically for local growth and change. The school division works with Maple Leaf Foods to pre-register potential students, enabling planning to occur based on accurate numbers from actual anticipated arrivals. Understanding differences amongst EAL learners and newcomers is needed to ensure enhanced education and a positive, effective experience. EAL students have traditionally arrived with higher levels of English language proficiency; in many instances these children’s parents had high levels of formal education. It is critical to understand how needs have evolved; this change is partly due to different categories of immigrants and skill levels. Since 2005, the Brandon School Division has known a period of adjustment and transition as more EAL students arrive with lower levels of English language proficiency. The greatest need for EAL support is in secondary schools, as those students have the least amount of time to complete their education in an additional language. It is vital to establish

mechanisms in support of EAL development in addition to integrating newcomers into the student body.

The Brandon story is unique and must be recognized as such, in order to ensure that policy and programming effectively meet local needs and enhance the experience of newcomers and the community. The nature of the community and the ability to welcome and absorb newcomers will impact retention rates. Attraction of migrants and newcomers is well underway; however, without community planning and preparedness, Brandon could become merely a transitional destination. Family reunification is an important contributing factor to retention and integration into the region. Multi-level partnerships and communication are vital to ensuring

Family reunification is a goal of many TFWs as they arrive in Brandon; however, two years is a long time to be separated from one’s family....In cases of family breakdown, local service providers offer assistance to spouses to ensure that they are able to obtain food and shelter, apply for social assistance and child support, and seek legal aid.

that the municipality receives needed provincial support. Successful settlement is as much about integration as it is about ensuring a welcoming community that positively reacts to newcomers and includes them in community life. A welcoming community respects diversity and fosters positive attitudes towards the arrival of newcomers, who come bearing different languages and cultures. Antiracism initiatives and cultural diversity celebrations are critical components of a welcoming community, as are successful settlement and integration. Families must feel included in their new community and efforts must be made to ensure a hospitable environment. A community that welcomes newcomers and works toward ensuring their full participation in society will reap the benefits of population and economic growth and increased diversity.

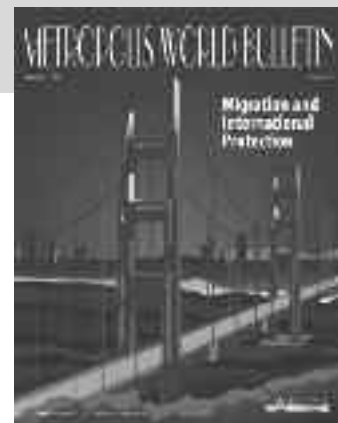
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TEMPORARY MIGRATION AND LABOUR MARKET RESPONSIVENESS IN THE PRAIRIE PROVINCES

ABSTRACT

This article provides an overview of the role of temporary migration as a component of the broader labour market in the Prairie Provinces. It also looks at the links between temporary and permanent migration in the context of today's Western economy and labour market.

Canada's labour market has been evolving, but in recent years the pace of change has accelerated. In recent history, Canada's labour market challenge had always been how to employ Canada's surplus of workers entering the labour market each year. This was driven largely by a number of factors:

- The large number of servicepersons returning to the labour force at the end of World War II;
- The huge increase in the labour force participation rate of women in Canada, which increased from 23.4% in 1953 to 57.5% in 1993 (Basset 1994);
- The Baby Boom;
- High levels of immigration.

Throughout the post-war period all of these factors led to high levels of unemployment. Therefore the domestic labour market was able to meet all but certain specialized needs, and those could be met by immigration. Furthermore, in the pre-air travel days, temporary migration was almost non-existent.

Even prior to the introduction of the Temporary Foreign Workers Program (TFWP), the points system was a policy response to a time when government struggled with a surplus of labour in Canada. To be admitted, permanent residents other than family members needed an occupation in high demand or an approved job offer, or both. In the words of the 1966 *White Paper*, "If those entering the work force, whether native-born or immigrants, do not have the ability and training to do the kinds of jobs available, they will be burdens rather than assets...[and]...the need for unskilled workers is declining." (Minister of Manpower and Immigration 1966: 8) The *White Paper* went on to opine that the "national effort to improve the employability and the productivity of the work force should not be offset by immigration policy, as it would be if a large proportion of immigrants were unskilled." (*Ibid*: 9)

The current TFWP came into effect with the introduction of Employment Visa regulations on January 1, 1973, and was designed to be an exceptional response to unique needs. As the *Green Paper* of 1974 noted, the regulations were to "protect the Canadian labour force against the unwarranted use of foreign labour." (Minister of Manpower and Immigration 1974b: 186). Unemployment rates in the 1970s were considered to be high compared to the 1940s and 1950s (Gower 1992). Therefore, Temporary Foreign Workers (TFWs) could only come to Canada if they were filling a high-skilled position and if the prospective employer had established that *no* Canadian residents were able and willing to do the job (*Ibid*.)

The bar was high because politicians and policy-makers wanted it that way – at least in most cases. There were, however, early on, some exceptions:

- On a reciprocal basis – the Student Working Holiday Programs;
- The Seasonal Agricultural Workers Programs (Caribbean, 1966, and Mexico, 1974);
- The Live-in Caregivers Program (1981).

However, beginning in the late 1990s and accelerating into the first years of this decade, there has been a huge change in the Canadian labour market (Statistics Canada 2008):

- Baby boomers are starting to retire;
- Until 2009, the Canadian economy had been booming (especially in the West);
- Canadians are increasingly better educated and unwilling to take low-skill jobs;
- Immigrants are also increasingly better educated and, therefore, less likely to take low-skill jobs.

Migration and the Prairies labour market

Today, we need to look at the labour market as a whole before focusing on temporary migration. In the three Prairie Provinces, as of February 2009, despite the onset of a recession, national employment rates are the highest in Canada, ranging from 66.6% in Manitoba to 71.6% in Alberta, and unemployment is the lowest in the country – at 4.3% in Manitoba and 4.2% in both Saskatchewan and Alberta (Statistics Canada 2008). While most forecasters see an increase in unemployment in 2009, it is expected that while the national unemployment rate will rise to about 8%, the rates for the Prairie Provinces will remain well below that figure, somewhere in the range of 4.8% to 5.8% (Statistics Canada 2009).

In 2006, the robust Alberta economy had a net gain of 63,000 inter-provincial migrants; almost 21,000 immigrants arrived and over 22,000 TFWs were in the province – some 100,000 people on a population of 3.2 million. With natural growth, this represented a growth rate of almost 3% per year and skilled jobs still go wanting in Alberta (Alberta 2007). When the economy recovers, this level of demand for skilled workers will likely resume.

Overall, in the last decade, while immigration to the Prairie Provinces has more than doubled from less than 16,000 in 1998 to over 40,000 in 2008, the number of TFWs has more than quadrupled from about 11,000 in 1998 to over 67,000 in 2008, with 85% of the total in Alberta (CIC 2008c, 2008d, 2009b, 2009c). While these numbers will likely fall in 2009, TFWs will continue to play an important part of the Prairie labour force.

Government responsiveness to the Prairies labour market

In a Prairies labour market of over 3,300,000, immigrants and TFWs will never be an answer to all the requirements. Retraining Canadians, developing the job skills of Aboriginal youth and encouraging older workers to stay in or return to the labour market must all be pursued. However, policy-makers have been slow to abandon the “we’re here to protect jobs for Canadians” mentality and

even slower to modify policies designed to keep foreign workers out of the Canadian labour market. While the regulations pursuant to the *Immigration and Refugee Protection Act* (IRPA), approved by Parliament in 2001 and implemented in 2002, changed the test administered by Service Canada to issue Labour Market Opinions (LMOs) that approve the hiring of foreign workers from the “no Canadians to do the job” to the “employment is likely to result in a neutral or positive effect on the labour market in Canada” test (*Immigration and Refugee Protection Regulations* 2002), Service Canada procedures remain, for the most part, the same.

So what happened on the ground? Local pressures started arising in the 1990s; in particular, shortages of nurses in Manitoba resulted in a large-scale TFW movement. This was handled exceptionally but was justified as nurses were skilled workers.

Ironically, the first challenge to the ban on low-skill TFWs was created as a result of the growing shortage of sewing machine operators (SMOs) in the Winnipeg apparel industry. This industry was booming as a result of the Canada-U.S. Free Trade Agreement but was destined – in a few short years, as a result of the Uruguay Round of Negotiations of the World Trade Organization (WTO) and China’s accession to the WTO – to transform itself by off-shoring the manufacturing and focusing on high-skilled jobs related to design, product development, supply chain management and marketing. But in 1994-1995, the industry needed sewing machine operators and was not about to accept “No” for an answer when TFWs from the Philippines were ready and willing to meet their needs.

The apparel industry in Winnipeg mobilized its political clout and gained the support of the Manitoba government which, in turn, lobbied the federal government: the Sewing Machine Operator Pilot project was born. As often has been and is the case, government responded with a pilot. It was born among misgivings but its success encouraged Manitoba and other provinces in pressing for regional tools to meet local labour market needs. The Provincial Nominee Program (PNP) was the result. This program allows provinces and territories to “nominate individuals for an immigration visa on the grounds that they meet economic needs of the province.” (CIC 2004). The connection between the PNP and TFWs is very important. Many provincial nominees start off in Canada as TFWs and others approved as provincial nominees overseas are allowed entry as TFWs while their PNP application is being processed.

The experience of the apparel industry in Winnipeg was noted by other industries. This was particularly the case with companies undertaking large oil sands projects and in the meat packing industry. Human Resources and Skills Development Canada was under pressure to respond and allow low-skilled workers to come forward as TFWs.

Unemployment rates in the 1970s were considered high compared to the 1940s and 1950s. Therefore, Temporary Foreign Workers (TFWs) could only come to Canada if they were filling a high-skilled position.

Again the response was a pilot – the low-skill pilot, now redesignated the “Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D). In 2002, the pilot was introduced and was restricted to one-year work permits; at the end of the period, workers had to leave the country for four months before re-applying for a Canadian work permit. In February 2007, the period was increased to two years; however, workers must still leave Canada for four months at the end of work permit (CIC 2007).

The requirement to leave Canada is a policy response to the repugnance towards guest worker programs. This repugnance is a long-standing element of Canadian immigration policy, succinctly and eloquently enunciated in the 1974 *Green Paper*:

It is the Government’s firm intention to see to it that policy with respect to the admission of non-immigrants for employment remains in harmony with Canada’s manpower strategy and national social objectives. There are sobering lessons in this field to be drawn from the experience of others. In the post-war period western European countries have resorted on a giant scale to the importation of “guest workers.”...The majority fill jobs that citizens of these nations regard as “undesirable,” and their working and living conditions are frequently substandard. Having often left their families at home, and alienated from the communities whose prosperity they serve, these workers are enmeshed in a system that exacts a heavy toll of social distress and antagonism. The arguments are compelling for Canadian policy scrupulously avoiding any step that might lead to comparable difficulties here (Minister of Manpower and Immigration 1974a).

Yet TFWs have a place in the economy. In 2004, Canada and Alberta agreed that TFWs destined for the oil sands projects ought to receive priority processing. Major meat packers in the West, such as Lakeside Packers in Brooks, Alberta and Maple Leaf Foods in Brandon, Manitoba, rely extensively on TFWs and immigrants (Annis and Yeager Boave 2008). Similarly, the hospitality and retail industry in Alberta has come to rely on TFWs to fill their needs, as workers are attracted to well-paying jobs in the petroleum industry. Even in the Northwest Territories, diamond cutters and polishers from Armenia and other countries have been brought in as TFWs to meet the labour market demand. Furthermore, if the Mackenzie River pipeline goes ahead, this will create another major demand source for TFWs in Canada’s North.

In this context, provincial governments are expecting more from the federal government. The federal government

has responded in part by establishing joint federal-provincial Temporary Foreign Worker Working Groups, consisting of representatives of Citizenship and Immigration Canada, Service Canada and the responsible provincial ministry. On the Prairies, the first was created in Alberta in 2006, followed by Manitoba in 2007 and Saskatchewan in 2008.

In addition, Service Canada has implemented “Regional Occupations under Pressure” lists to reduce the time employers need to recruit and hire TFWs. Employers wishing to recruit TFWs for occupations found on a Regional Occupations under Pressure list need only conduct minimum advertising efforts rather than the more comprehensive recruitment efforts usually required under the Temporary Foreign Worker Program (TFWP). However, employers will still need to satisfy all other TFWP requirements. On the Prairies, there are such lists for Alberta and Manitoba (HRSDC 2008a).

As pressure mounts, the federal government is seeking ways to respond. Recently, the government permitted foreign students to work in off-campus jobs, and foreign post-secondary students are now allowed to work for three years after graduation (CIC 2008c). Finally, the Canadian Experience Class (CEC), implemented in 2008, now allows TFWs who have been in Canada legally and have acquired two years of work experience and foreign graduates who have worked for at least a year after graduation in an area related to his/her studies to apply for permanent residency from within Canada (CIC 2008a). However, the Canadian Experience Class is limited to high skills (NOC 0, A and B) (HRSDC 2008b).

At this point, the only way for a low-skill foreign worker to apply for permanent residence is via a provincial nominee program. And many provinces are not keen on being the only “relief valve.” Nonetheless, they are responding to the demand. For example, in Manitoba, a TFW with an ongoing job offer can apply for the Manitoba PNP after six months in Manitoba (Manitoba Department of Labour and Immigration n.d.).

The future role of temporary migration in the labour market

So what’s next? The federal government has offered the provinces the possibility of adding a TFW annex to their federal-provincial agreements. Such an annex would formalize the provinces’ role in approaches to the recruitment of TFWs and may well allow provinces to determine categories of TFWs who would be exempt from labour market opinions. The Canada-Alberta Immigration Agreement includes a TFW annex (added in 2009) and we can expect this to be of interest to Manitoba and Saskatchewan as well (Agreement for Canada-Alberta Cooperation on Immigration 2007).

However, the Low Skill Pilot Project is about to pose challenges. It was in early 2007 that the first two-year work

The hospitality and retail industry in Alberta has come to rely on TFWs to fill their needs, as workers are attracted to well-paying jobs in the petroleum industry.

permits were issued, so the first participants will see their work permits expire in early 2009. Some will want to leave but some will go underground. Some employers will not want to lose their investment in productive workers and will apply pressure to keep these workers. Specifically, they will pressure the provinces to accept the temporary workers as provincial nominees, and the federal government to change its procedures in order to allow lower-skilled workers to apply under the CEC.

In addition, the increasing number of TFWs in Canada is a challenge to Canada's longstanding position that those we allow to come to Canada will be allowed to stay, become permanent residents and, in time, citizens, if they so choose. The Low Skill Pilot Project challenges this model. The reality is that while employers seek workers, when government responds, either through temporary or permanent immigration, what Canada gets is human beings and their families.

Also, there is concern that workers in low-skilled occupations are most vulnerable to abuse by unscrupulous employers. There is no question that compliance resources are needed at the provincial and federal levels to ensure that working and wage conditions are respected. Furthermore, there is concern that low-skill workers are most vulnerable to economic downturns and, therefore, should not be permitted to become permanent residents and, possibly, future public charges. But is this part of the old paradigm?

If low-skilled jobs are going unfilled in huge numbers and demographic trends suggest that this will only get worse, is the low-skilled worker actually becoming a rather secure part of the Canadian labour market? Are we also perhaps perpetuating a premise that low-skilled workers always remain low-skilled? Experience has shown that, once in Canada, many low-skilled workers take steps to upgrade their skills or learn new ones.

Returning to the Sewing Machine Operator pilot in Winnipeg, the apparel industry that employed some 8,000 workers as recently as 1999 (Manitoba Department of Intergovernmental Affairs 1999) now employs a little more than half that number (Marshall, Guèvremont and Pronovost 2007, Statistics Canada 2008).¹ Employment in the clothing industry in Canada peaked in 2001 and has fallen dramatically since then for the reasons noted earlier. Except in specialty niches, such as extremely high quality fashions and military uniforms, most production has been moved off-shore (Wyman 2005).

So where are the SMOs? Some were in their late 30s and 40s when they arrived in Canada and are now happy to retire. Others, however, have acquired new skills and moved on. Some have stayed in the sewing business but moved to furniture manufacturing, sewing upholstery in another industry, which is very important to the Manitoba economy. They are *not* unemployed or on welfare. The worries that they would become a burden on social services never materialized.

Similarly live-in caregivers – also low-skilled TFWs who have the ability to transition to permanent resident status – have by a large margin established successfully.

The Canadian Experience Class is the natural extension for skilled temporary foreign workers wishing to make a seamless transition to permanent residence.

It has been welcomed by TFWs and by foreign students who qualify, by the employers who hire them and, in the West, by the provinces and territories who appreciate that, in the long term, there will again be a desperate need for workers.

Policy and research challenges

So in the face of the experience of Winnipeg's SMOs and of live-in caregivers across the country, there appears to be a need for more research and analysis to inform policy-makers, prior to their coming to a viable policy response, as to the question of what to do with our so-called low-skilled temporary foreign workers.

And, what of the low-skilled TFWs whose work permits are about to expire? Not all will want to stay. Many of the oils sands workers are part of an international labour force that moves from one high-paying mega-project to another and have no intention of staying.

But what about those low-skilled workers who want to stay? Before we pronounce a categorical "No way," we need to objectively examine whether or not our fear that they are too vulnerable to stay permanently and settle successfully is, or is not, well-founded, and make sound policy decisions on the basis of this analysis.

The current economic "crisis" may well provide policy-makers with the empirical evidence required to make these important decisions.

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Note

¹ Nationally, the number of sewing machine operators declined by 32.7% to a total of 37,800 nationally from 2001 to 2006.

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INSERTION

SOCIOPROFESSIONNELLE

DES AIDES FAMILIALES

RÉSIDENTES

Au Québec, comme dans plusieurs autres sociétés (autres provinces canadiennes, pays d'Europe de l'Ouest et du Moyen-Orient, Hong Kong, Émirats arabes unis, etc.), la possibilité de pourvoir des postes d'aides familiales résidant chez l'employeur par la main-d'œuvre locale est pratiquement nulle. Les personnes qui souhaitent néanmoins bénéficier de ce type de services font appel à des travailleuses (il s'agit presque exclusivement de femmes) qu'elles recrutent à l'étranger, le plus souvent en provenance des Philippines.

Malgré les nombreuses initiatives mises de l'avant au Québec pour permettre aux aides familiales résidentes de vivre une première expérience de travail dans le respect de leurs droits, certaines situations d'abus dénoncées par des groupes de défense des droits des migrants font régulièrement l'objet d'une couverture médiatique. Généralement, on y dresse un portrait peu flatteur de la situation des personnes qui travaillent comme « aides domestiques », présentées comme des travailleuses aux prises avec un environnement et des conditions de travail difficiles. Mais qu'en est-il réellement? Ces femmes se retrouvent-elles dans une situation précaire? Et qu'advient-il une fois qu'elles obtiennent leur résidence permanente? Quittent-elles alors le domaine du travail domestique afin d'occuper un nouvel emploi davantage en lien avec leur formation professionnelle ou avec leurs intérêts? Réalisent-elles leur potentiel d'intégration économique au sein de la société québécoise?

Il s'agit là de questions stratégiques pour le ministère de l'Immigration et des Communautés culturelles dont la mission est, entre autres, de faciliter l'intégration linguistique, sociale et économique des nouvelles arrivantes et des nouveaux arrivants au sein de la société québécoise. Afin d'améliorer le fonctionnement du programme, il est nécessaire de savoir ce qu'il advient des personnes qui y participent. L'objectif de l'enquête consiste à obtenir une meilleure compréhension du parcours d'intégration socioprofessionnelle des aides familiales résidentes, une fois qu'elles ont obtenu la résidence permanente.

Le Programme des aides familiaux résidents (PAFR)

Lorsqu'on examine l'évolution des programmes des employées domestiques, on constate que le besoin pour ce type d'emploi est demeuré constant au cours des décennies. Cependant, les conditions d'admissibilité au programme ont été modifiées à maintes reprises. Plusieurs programmes particuliers ont été mis en place au fil du temps pour attirer des domestiques au Canada. Le premier programme, mis en œuvre en 1955, visait spécifiquement les travailleuses de la Jamaïque et de la Barbade. En 1973, le gouvernement canadien adoptait un système de permis de travail temporaire qui imposait un employeur précis aux domestiques et le retour dans le pays d'origine à l'expiration de ce permis. En 1981, des modifications ont conduit à l'entrée en vigueur du Programme pour les employés de maison étrangers. C'est aussi en 1981 que la composante sur la résidence permanente a été introduite dans le programme, permettant aux participantes de faire, en vertu de certains critères, une demande d'immigration permanente sans devoir quitter le pays.

Le programme actuellement en vigueur, le Programme des aides familiaux résidents (PAFR), a été mis en place en 1992 par le gouvernement fédéral, avec l'objectif de favoriser la venue de travailleuses afin de combler des postes d'aides familiales résidentes laissés vacants par la main-d'œuvre locale. Les emplois à pourvoir visaient exclusivement à répondre à des besoins se rapportant à la garde des enfants et aux soins à des personnes âgées ou handicapées.

Les personnes désireuses d'être admises dans le PAFR doivent notamment répondre aux exigences applicables à la délivrance d'un certificat d'acceptation du Québec, plus précisément :

- avoir terminé 11 années de scolarité;

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- avoir acquis, au cours des cinq années précédant la demande, une expérience professionnelle d'au moins six mois dans ce type d'emploi ou avoir suivi une formation professionnelle d'au moins six mois pour ce type d'emploi;
- avoir une bonne compréhension du français ou de l'anglais;
- avoir signé un contrat de travail exclusif avec un employeur au Québec.

Une fois admises dans le PAFR et après avoir cumulé 24 mois de travail comme aide familiale résidente au cours des trois premières années de leur séjour au pays, les participantes peuvent, sur place, demander la résidence permanente au Canada, demande pouvant inclure leur conjoint et leurs enfants.

L'enquête sur les aides familiales résidentes (AFR)

Le ministère de l'Immigration et des Communautés culturelles (MICC), en collaboration avec le Conseil du statut de la femme (CSF), a mené une enquête, au début de l'année 2007, auprès des personnes initialement admises au Québec comme travailleuses temporaires dans le cadre du PAFR et ayant obtenu la résidence permanente entre 2000 et 2004 afin de connaître leur parcours d'intégration socioéconomique au Québec. Il importe de souligner que cette enquête ne tient pas compte des AFR qui ont quitté le Canada ou qui n'ont pas fait de demande de résidence permanente.

Le principal objectif de l'enquête était d'apporter un éclairage sur le parcours de ces personnes afin de savoir si leur intégration socioéconomique peut être considérée comme réussie. Cependant, l'intégration d'une personne ne pouvant se mesurer uniquement par son emploi, une variété de sujets ont également été abordés dans cette enquête. Les principaux thèmes se rapportent à la situation d'emploi ou de non-emploi, à la connaissance du français ou de l'anglais, aux conditions financière et familiale, au logement, au niveau d'engagement social et au niveau de satisfaction quant à la situation générale des répondantes au Québec. Par ailleurs, pour bien rendre compte du parcours d'intégration, l'enquête comporte des questions portant sur la situation des répondantes depuis leur arrivée au Québec, tant lorsqu'elles avaient un statut de travailleur temporaire qu'un statut de résident permanent, de même que sur leur situation prémigratoire.

Selon les données d'admission du MICC, il y a eu 962 personnes (il s'agit presque exclusivement de femmes) admises à titre de résidentes permanentes, comme requérantes principales, dans le cadre du PAFR de 2000 à 2004. Parmi les 962 personnes de la population ciblée, 312 ont répondu à l'enquête. Les principales caractéristiques socioéconomiques des répondantes correspondent de très près à celle de la population ciblée.

Le portrait réalisé à partir des résultats de l'enquête nous apprend qu'au moment de l'entrevue, ces femmes étaient très présentes sur le marché du travail, leur taux d'activité étant estimé à 78,2 %. À titre indicatif, ce taux se compare avantageusement à celui de l'ensemble des femmes du Québec, lequel se situait à 59,5 % au recensement

de 2006 (Statistique Canada, 2007b). Leur taux d'activité est également supérieur à celui de l'ensemble des femmes immigrantes, ce dernier étant de 54,2 % en 2006 (*Ibid.*). Au moment de l'entrevue, plus de la moitié des répondantes en emploi exerçaient une profession autre que celle d'aide familiale. L'enquête a permis de constater que plus la période de séjour après l'obtention de la résidence permanente est longue, moins elles travaillent en tant qu'aides familiales. Par ailleurs, lorsqu'elles sont sans emploi au moment de l'entrevue, les obligations familiales sont la principale raison de leur non-disponibilité pour travailler.

Plus précisément, *au moment de l'arrivée au Québec*, toutes les répondantes ont eu un premier emploi comme aide familiale résidente. Elles s'occupaient alors principalement des enfants de leur employeur. Près de la moitié des répondantes déclaraient travailler plus de 40 heures par semaine¹, et le travail était faiblement rémunéré : le salaire² hebdomadaire moyen s'élevait à 259,33 \$. Enfin, elles utilisaient principalement l'anglais au travail.

Tableau 1
Situation sur le marché du travail au moment de l'entrevue

	n	%
En emploi		
Aide familiale	94	42,7
Autre	126	57,3
Total	220	70,5
Sans emploi		
Disponible à travailler	24	27,0
Non disponible à travailler	65	73,0
Total	89	28,5
Non réponse	3	1,0
Total	312	100,0

Au moment de l'entrevue, soit en février et mars 2007, parmi celles en emploi, 94 travaillaient en tant qu'aides familiales, et parmi celles-ci 12 demeuraient chez l'employeur. Pour la majorité des emplois d'aide familiale, la tâche principale consistait à s'occuper des enfants de l'employeur. Les répondantes travaillaient surtout en anglais. Leur semaine habituelle de travail comprenait 40 heures réparties sur cinq jours et leur salaire hebdomadaire moyen était de 309,50 \$, soit l'équivalent du salaire minimum.

Également au moment de l'entrevue, 126 personnes exerçaient une profession autre que celle d'aide familiale, dont neuf cumulaient deux emplois. Ces emplois appartenaient surtout à la catégorie du personnel de soutien des services de santé et un emploi sur cinq exigeait des études collégiales. Le tiers des emplois occupés sont à temps partiel, alors que la moitié correspond à un horaire de 40 heures réparties sur cinq jours. Le salaire hebdomadaire moyen de ces emplois est plus important que celui d'aide familiale : il s'élève à 422,74 \$. Par ailleurs, tout comme celles qui travaillent comme aides familiales, les personnes qui occupent une profession autre utilisent majoritairement l'anglais au travail.

Ainsi, les conditions de travail des répondantes ont évolué de manière significative entre la période de l'arrivée au Québec et celle de l'enquête : les heures de travail sont moins longues et le salaire hebdomadaire moyen a augmenté de 50 \$ par rapport à celui obtenu lors de l'arrivée, pour les emplois d'aide familiale, et de 150 \$ lorsque le revenu d'emploi concerne une profession autre. Cependant, ce salaire hebdomadaire demeure plus faible que celui de l'ensemble des femmes du Québec, qui est évalué à 597,90 \$ par semaine, en 2007 (Statistique Canada, 2007a).

Le revenu annuel des répondantes est relativement faible : 49,7 % ont déclaré des revenus annuels de moins de 25 000 \$. En outre, elles sont le principal soutien de leur ménage dans près de la moitié des cas. Plus d'une répondante sur deux est mariée, alors que le tiers est célibataire.

Au moment de l'entrevue, 89 répondantes étaient sans emploi. Parmi celles-ci, 65 ont déclaré ne pas être disponibles pour travailler et 24 étaient à la recherche d'un emploi. Parmi celles qui n'étaient pas disponibles pour travailler à cause de leurs obligations familiales, soit de devoir s'occuper de leurs enfants (55,4 %) ou à cause d'une grossesse (20,0 %). Les autres raisons de non-disponibilité au travail évoquées par les répondantes sont les études (10,8 %) ou un congé de maladie (6,2 %).

Au moment de l'entrevue, 38 répondantes ont déclaré suivre une formation. La plupart d'entre elles suivaient une formation spécialisée (65,8 %), tandis que la plupart des autres suivaient un cours de français (31,6 %). Aussi, depuis leur arrivée au Québec, la majorité des répondantes ont déclaré avoir suivi une formation, principalement pour apprendre le français (71,7 %).

Les répondantes ont une vie sociale active. La majorité de celles-ci (75,0 %) fréquentent de manière régulière un lieu de culte et, dans une proportion moindre, sont membres d'une association (33,7 %) ou sont actives dans leur communauté (31,4 %).

Une intégration réussie?

L'intégration socioéconomique des personnes qui ont obtenu la résidence permanente en vertu des exigences du PAFR peut-elle être considérée comme réussie? Les données tirées de la présente enquête ne fournissent pas de réponse univoque à cette question compte tenu, notamment, de la difficulté de mesurer avec certitude l'intégration socioéconomique d'une personne. Toutefois, cette enquête montre des indices importants d'amélioration de la situation socioéconomique des répondantes.

Les répondantes sont très présentes sur le marché du travail et plus la période de temps depuis l'obtention de leur résidence permanente est longue, plus elles travaillent dans une profession autre que celle d'aide familiale. Il en va de même du salaire hebdomadaire moyen qui augmente quel que soit le type d'emploi occupé. Ce salaire moyen demeure toutefois inférieur à celui de l'ensemble des travailleuses québécoises. Le revenu annuel des répondantes augmente également au fur et à mesure que la période de séjour après l'obtention de la résidence permanente devient importante.

En ce qui concerne l'intégration linguistique des répondantes, la majorité de ces dernières ont suivi des cours de français à leur arrivée au Québec et une partie d'entre elles suivent des cours au moment de l'entrevue. Par ailleurs, le nombre de répondantes connaissant le français est plus élevé au moment de l'entrevue qu'à celui de l'arrivée au Québec, et ce, même si elles travaillent toujours principalement en anglais.

Les répondantes ont une vie sociale active et elles semblent en général satisfaites de leur situation au Québec. En effet, 9 répondantes sur 10 ont déclaré être satisfaites de leur situation présente. De même, elles évaluent que leur situation s'est améliorée, tant par rapport à la période avant l'arrivée que par rapport aux deux premières années qui ont suivi cette arrivée, et ce, dans une proportion similaire.

Enfin, l'intégration d'une personne immigrante étant un processus qui s'inscrit dans le temps, pour les répondantes de l'enquête, ce processus serait toujours en cours.

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Notes

¹ De nouvelles dispositions de la *Loi sur les normes du travail* sont entrées en vigueur le 1^{er} mai 2003. Avant cette date, la semaine normale de travail de l'AFR était de 49 heures pour un salaire de 292 \$. Au-delà de 49 heures, le travail effectué était considéré comme des heures supplémentaires rémunérées à un taux augmenté de 50 % (temps et demi). À partir du 1^{er} mai, la semaine normale de l'AFR a été réduite à 40 heures, comme pour les autres salariés, et rémunérée au taux général du salaire minimum (7,30 \$ de l'heure ou 292 \$ par semaine à partir de mai 2003). De plus, les heures excédant cette période sont payées à temps et demi.

² Les salaires sont en dollars courants.

TEMPORARY WORKERS: PERMANENT RIGHTS?

ABSTRACT

Although Canada has long had programs designed to bring in migrant workers on a temporary basis, recruitment of temporary foreign workers has grown fast in the last decade. The Temporary Foreign Worker Program (TFWP), in particular, has been widely expanded to include a significant number of low-skilled workers. This article outlines the legal framework that regulates the entry and stay of temporary foreign workers into Canada. It examines the issues surrounding the legal status of temporary foreign workers admitted under the TFWP and identifies some major protection gaps within the administration of the program. **This article was last revised in January 2009.**

With falling fertility rates and the ageing of the baby boom generation, the supply of both high-skilled and low-skilled workers is in decline across Canada and around the developed world. While immigration is presented as a strategy for alleviating this shortage, Canada's immigration points system, which allows individuals to enter Canada as permanent residents (i.e., the Federal Skilled Worker Program), is criticized for not being sufficiently responsive to short-term labour market demands. These criticisms include, *inter alia*, the lack of credit given to those workers with skills or competencies that are in demand (the Federal Skilled Worker Program tends to admit skilled individuals only, regardless of need or demand for them), the large backlog of applicants seeking permanent residency as federal skilled workers, and the major challenges faced by many immigrants in gaining meaningful employment in jobs that match their education, skills and experience (Watt et al. 2008). Ministerial Instructions have recently addressed some of these criticisms.² However, given the disconnect between the short-term needs of employers and Canada's permanent immigration system, employers have turned to alternative means to address their immediate skill and labour shortages, such as Canada's temporary foreign worker programs (TFWPs).

Recruitment of temporary foreign workers (TFWs) is growing fast: in 2007, 115,470 TFWs arrived in Canada, a 47% increase since 1997 and a 21% increase in one year. By comparison, only 97,857 economic immigrants immigrated to Canada under the Federal Skilled Worker Program in 2007. Although the number of TFWs has grown substantially in all provinces (with significant numbers of foreign workers in Western Canada), this increase has been most pronounced in Alberta. In 2007, there were 37,257 temporary workers in the province, a 350% increase in four years. Permits issued to low-skilled workers account for the largest percentage of the increase in Alberta. Overall, it is estimated that 302,303 TFWs are currently living and working in Canada, a 100% increase over 1997 and a 22% increase over the previous year (CIC 2008c).

Canada has long had programs – general or sector-specific – designed to bring in migrant workers on a temporary basis. Canada's flagship temporary migration programs, namely the Seasonal Agricultural Worker Program (SAWP) and the Live-in Caregiver Program, have traditionally been the focus of particular attention within policy and academic circles: praised by some as an effective way of filling a shortage in the labour market with a low overstay rate, they have been denounced by others as placing too many restrictions on workers' mobility and all power in employers' hands, therefore increasing the vulnerability of the workers hired under these programs. Interestingly, a third program has been widely expanded in the last five years but has until now largely operated below the constitutional radar. This program, the Temporary Foreign Worker Program (TFWP), is the focus of our current research on the legal status of TFWs. But before addressing the issues surrounding the legal status of those TFWs, it is necessary to first explain the legal framework regulating the entry and stay of all TFWs into Canada.

According to section 95 of the *Constitution Act* (1867), immigration is a matter of shared federal-provincial jurisdiction: the Parliament of Canada may make laws in relation to immigration for Canada as a whole and provincial legislatures have powers to make laws with respect to immigration matters in the province, provided that these laws are not "repugnant to any Act of the Parliament of Canada" – i.e., the federal legislator (doctrine of paramountcy). However, measures and policies relating to the entry of non-citizens fall solely under federal jurisdiction (s. 91). Thus, the federal government regulates the admission and expulsion of TFWs but their protection is covered by provincial laws and standards. *The Immigration and Refugee Protection Act* (IRPA)³ is a framework legislation that stipulates only the general principles, criteria, and powers of immigration/refugee decision-making. It must therefore be

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complemented by a detailed outline of definitions, procedures and factors to be considered by decision-makers. Such details can be found in the *Immigration and Refugee Protection Regulations* (IRPR)⁴ and in the administrative guidelines (which assist officers in interpreting the regulations and explaining the programs that fit under these regulations) (CIC 2008a).

The term “temporary foreign worker” refers to a foreign national engaged in a paid activity who is authorized to enter to Canada for a limited period of time (IRPR ss. 22, 29 and 47; IRPR ss. 2 and 200). While there are some types of work that a foreign national is authorized to do without having to obtain a work permit (IRPR ss. 186 and 187), the TFWP does not allow employers to hire TFWs without a work permit: once employers obtain a positive Labour Market Opinion (LMO) from Human Resources and Social Development Canada (HRSDC) – which requires, among other things, a demonstration that attempts were made to hire Canadians – the potential employee has then to apply for a work permit from Citizenship and Immigration Canada (CIC). Applications for a work permit are generally made outside Canada; however, ss. 198 and 199 of IRPR describe the situations whereby a work permit may be obtained at the Port of Entry (POE) or within Canada, respectively. CIC is primarily concerned with whether the TFW meets the job qualifications and if he or she will leave Canada after a temporary stay (IRPR ss. 200, 203 to 209). At that stage, a medical exam prior to undertaking work in Canada will be also be requested for TFWs who intend to work in a sector where the protection of public health is essential or who intend to be in Canada for more than six months and who have resided in a designated country for more than six months during the year preceding their arrival in Canada (IRPR, s. 70). It is the Canada Border Services Agency (CBSA) officer at the port of entry who has the final say on whether an individual can enter Canada. A positive Labour Market Opinion and permission to work in Canada are thus not determinant of admission, since the CBSA officer at the port of entry must still review all immigration, identity and work-related documents before printing off the actual work permit and allowing the person to enter the country.

Although work permits issued under the TFWP tie each TFW to a single employer, individual conditions imposed on the work permit – for instance, where and how long the applicant can work – vary from one person to the next (IRPR, s. 183 and 185). Temporary foreign workers in Canada with a valid work permit who wish to change any condition on their work permit or renew their work permit before its expiration are allowed to apply from within the

country, by mailing their application to the Vegreville Case Processing Centre (IRPR, s. 199). TFWs with an expired work permit may apply from Canada to restore their status within 90 days of the expiration of their work permit, but there is no guarantee that CIC will restore their status (IRPR, s. 182). Since November 2008, there are two application streams from within – one for renewal of a work permit with the same employer (current processing time is 72 days) and another for changing conditions to a new employer (current processing time is 19 days) (CIC 2008b). TFWs who have applied to extend a work permit with the same employer prior to the expiry of their existing work permit acquire implied status as of the date the application is received, and can continue to work at their existing place of employment, as long as they remain

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in Canada (IRPR, s. 186(u)) (CIC 2009). However, workers who have applied for a work permit with a new employer are not authorized to work for the new employer until they receive their work permit (IRPR, s. 124(1) (b) and (c)). Although the processing time for the new employer stream has been significantly reduced since November 2008, the overall waiting time involved in finding a new job and a new LMO can be very long, especially since TFWs are not authorized to work and are therefore left without income for that time if they are no longer working for their previous employer. As a result, many TFWs leave the country with the intention of re-entering it immediately in order to have their application for a new work permit processed at a Canadian port of entry (this cannot be an airport since the workers have to physically be outside the country).⁵ However, there is no guarantee that a worker with an LMO will again be authorized to re-enter Canada at a port of entry. Indeed, if the CBSA officer is not satisfied that the worker will leave the country upon expiration of the work permit, or that they do not, for example, possess the adequate English skills for the job, the officer might decide not allow the worker re-entry. What’s more, the risk of deportation from the United States for some foreign workers who cross the U.S. border in order to seek to re-enter to Canada is very real. Last but not least, workers who applied for a restoration of status from within and who present themselves at the Canadian border with the intention of re-entering the country with a new work permit very often don’t realize that leaving Canada means that they will be refused re-entry to the country, and that in addition, they will be subject to a removal order. On that point, CIC information provided in the document entitled “Applying to change conditions or extend your stay in Canada as a worker” (IMM 5553 E) is confusing: it does not clearly indicate

whether a TFW applying for restoration must leave Canada, nor does it indicate which status TFWs have while waiting for CIC to process their restoration applications. This document only indicates that the TFW has to wait for further instructions but does not provide details as to what those instructions may be. The IRPR also fail to elaborate on this point.

The TFWP, which came into existence in 1973, was initially designed for specific groups such as highly skilled academics, business executives, and engineers, to provide an efficient channel for professionals coming to Canada to work. In response to demands from provincial governments and employers, the federal government has progressively expanded the number of occupations under which workers could come to Canada, to include low-skilled and middle-skilled workers. It has also provided for an expedited LMO (e-LMO) process for “occupations under pressure” in certain provinces and oil sands construction workers in Alberta. A good example of this program extension is the Low Skill Pilot Project (formally known as the Pilot Project for Hiring Foreign Workers in Occupations Requiring Lower Levels of Formal Training NOC C and D), established in 2002 with the intention of meeting the labour market demand for low-skilled workers not eligible for the regular skilled worker LMO process. There are no quotas under the TFWP, and a significant number of low-skilled workers have entered Canada since the inception of this pilot project (Piché, Pelletier, and Epale 2006). This recent increase in the number of low-skilled workers has been accompanied by a growing concern surrounding their protection and eventual integration in the country of employment:

- First, under the Low Skill Pilot Project, employers have obligations towards workers that they do not have towards highly skilled TFWs. They must provide a written employment contract that clearly outlines remuneration, job duties, benefits, hours of work, and the rights and obligations of both parties. They must also pay return airfare to the employee, arrange for reasonable accommodation, and provide temporary medical insurance coverage and worker’s safety insurance. However, as is shown below, the federal government has little to no ability to follow up on these conditions.
- Second, low-skilled workers hired under the Low Skill Pilot Project are encouraged to stay for a longer term than before. For example, work permits, initially valid for 12 months, were extended to 24 months in 2007. TFWs employed for 24 months are in theory required

Many TFWs leave the country with the intention of re-entering it immediately in order to have their application for a new work permit processed at a Canadian port of entry. However, there is no guarantee that a worker with an LMO will again be authorized to re-enter Canada.

to return to their home country for at least 4 months before applying for another work permit under the Low Skill Pilot Project (24 months in, 4 months out; CIC Manual 2008: 28). Yet decisions on extensions have no regulatory authority and are made on a case-by-case basis. Therefore, if their employer still has a valid Labour Market Opinion, TFWs may be able to renew their work permit from within without having to leave the country for 4 months. In a context where there is no limit to the number of renewals (IRPR, s. 201), this creates a situation in which TFWs remain indefinitely in Canada. However, there is currently little hope of permanent settlement, little opportunity for a temporary resident to secure a permanent resident status from within the country. This is not because low-skilled TFWs are not allowed to do

so: section 22 of IRPA somehow ambiguously states that an “intention by a foreign national to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay”). Yet low-skilled workers in occupations NOC C and D that are the subject of the Low Skill Pilot Project are unlikely to qualify for permanent residency under the Federal Skilled Worker Class (for the aforementioned reasons). They also are excluded from the Canadian Experience Class, which only targets skilled occupations (NOC 0, A, and B). Provincial Nominee Programs (PNPs) may be the most likely path to permanent residence for some participants in the Low Skill Project, but opportunities are limited here as well.⁶ With the recent changes to the Low Skill Pilot Project, more applicants also want to have their family members accompany them to Canada. Again, although there is no regulatory bar to this situation, this is difficult in practice. The onus is on the potential

employee to demonstrate to the immigration officer that they are capable of supporting their dependents while in Canada. One of the key points to consider when processing such applications is the spouse’s working situation. While the spouse of a highly skilled worker is entitled to enter Canada with an open work permit (i.e., no restriction on employer), the spouse of a Low Skill Pilot worker is not eligible for an open work permit and requires a positive LMO if applying for a work permit. This creates, according to CIC, a “significant financial barrier to accompanying dependents which will be difficult to overcome” (Confirmation Exception Code (CEC) C41, CIC Manual 2008: 28 and 32-33). Interestingly, spouses of work permit holders who have been nominated for permanent residence by

a province under a provincial nominee program will be entitled to open work permits for the duration of the work permit of the provincial nominee principal applicant, *irrespective* of the skill level of the principal applicant's occupation. CIC writes: "While there is reluctance on the part of CIC and HRSDC to support work permits for lower-skilled workers because their skills profile would not normally qualify them for permanent immigration to Canada, concerns regarding these persons going out of status and remaining in Canada illegally are mitigated when the foreign national has been nominated for permanent residence. If a province feels a foreign national is sufficiently needed in its labour market to nominate that person, then having that job filled is clearly important, irrespective of where in the NOC that particular job is classified." (CIC Manual 2008: 58-59). This sentence illustrates the government's philosophy that low-skilled workers should not remain in Canada permanently.

Several other issues relating to the legal status of TFWs within the TFWP have already been identified as worthy of further investigation. Some of them are summarized below:

- The TFWP is composed of vague policies and guidelines and numerous changes in the administration of the TFWP are not accompanied by changes or clarifications in the legislation. In a context where wide discretionary powers are granted to CIC and CBSA officers, the risk of making mistakes is not minimal and this may lead to detrimental consequences for the TFW.
- There are overlapping policies involved in administering the TFWP. Splitting up the administration of the program between HRSDC, CIC and CBSA creates opportunities for miscommunication and confusion. In relation to this, the lack of an overall mechanism to oversee the TFWP is problematic: responsibility for ensuring that TFWs are treated fairly and not subjected to unreasonable processes is diffused and passed from one agency to another. As a result, it falls to employers to ensure that TFWs have access to the resources and information they need to settle into life in Canada. Many employers, however, simply do not have the time, resources, and knowledge to take on this responsibility and to help TFWs through their integration and settlement problems, nor is there any incentive for them to do so. For example, employers have no obligation to raise wages beyond what is stated in the LMO. Thus, while Canadian workers do receive pay wage increases, TFWs may receive the same wage for the two years they are eligible to work in Canada. There is also no mechanism in place to ensure that employers are honest when they apply for an LMO and no follow-up assessment of workplaces. For example, if employers fail to discharge their special obligations toward the low-skilled TFWs, the only course of action by HRDC is to refuse to renew a LMO. HRSDC and CIC have recently started a co-initiative aimed at developing monitoring and compliance mechanisms

("program integrity measures") and making associated regulatory changes. While this initiative is still at a very early stage of development, this is a positive change. CIC and HRSDC should also work together on providing ready access to independent legal information and advice to TFWs, for example with joint governmental information sessions for TFWs. Finally, CIC and HRSDC should also share their information about the location of TFWs with provincial governments so that provinces can increase worker protections through the enforcement of the requirements stipulated in the job contract or governed by the provincial legislation.

- TFWs are afforded as legal protections in the workplace environment as are other workers in the province, but those rights, which are complaint-driven, do not transfer well into practice: a lack of awareness of rights and available mechanisms for redressing rights violations, language barriers, misleading employer-provided information and threats of deportation are serious impediments in accessing those rights in the workplace.
- Although labour brokers can help match TFWs with employers, they often charge TFWs for work placement, which is illegal under several provincial laws but not prohibited within the country of origin of the TFW. Every province shall therefore introduce legislation similar to that introduced in spring 2008 in Manitoba, which requires foreign recruitment agencies to be registered in Canada and makes charging workers a fee for their own recruitment illegal. In addition, it is not uncommon to hear testimonies of foreign workers having been misinformed by some labour brokers who told them that temporary work permits were the first step toward permanent residency. Nor is it uncommon to hear of TFWs being charged exorbitant fees up front for immigration for permanent residency services before they leave their home country, which may be either paid beforehand or contracted for future payment – with little obligation on the part of the immigration service provider.

In sum, for temporary foreign workers to really benefit from the opportunity to live and work in Canada, it is necessary to identify protection gaps within the TFWP and to better address temporary workers' needs on a systemic level. This has implications for their understanding of workplace expectations and their rights and obligations in Canada, including access to permanent residency for those workers who may, in fact, remain indefinitely in Canada.

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Notes

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² In June 2008, in order to make the federal selection system more flexible, Parliament passed Bill C-50, which gives broad discretionary powers to the CIC Minister to issue instructions to immigration officers for the processing of applications of economic and family class immigrants. In November 2008, Ministerial Instructions were established, requesting priority processing of all economic class applications: "Ministerial Instructions," *Canada Gazette* 142, 48, November 29, 2008.

³ SC 2001, c. 27 (enacted on June 28, 2002).

⁴ SOR/2002-227.

⁵ Informal conversation with Susan Wood, Temporary Foreign Worker Coordinator at the Edmonton Community Legal Centre (January 28, 2009).

⁶ A PNP is based on a federal-provincial agreement (according to s. 8(1) of IRPA) under which a province obtains sole responsibility for the selection of a certain number of potential immigrants likely to be of significant benefit to the economic development of this province and for their nomination for immigration into that province. After federal security, criminality and health checks, CIC makes a final decision on the application and issues or refuses a permanent resident visa to the applicant. PNPs are open to only a select number of occupations and participation rates are still very low.

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TEMPORARY WORKER PROGRAMS AS PRECARIOUS STATUS

Implications for Citizenship, Inclusion and Nation Building in Canada

ABSTRACT

This article is based on the premise that immigration and citizenship policy play a fundamental role in nation building. The concept of precarious status is presented, and temporary worker programs are situated in relation to precarious status. The discussion is intended to contribute to public debate in Canada (and elsewhere) regarding the implications of temporary worker programs for citizenship as an institution, set of practices, social inclusion more generally, and nation building. In doing so, it raises questions about policy choices that both affect and reflect the ongoing work of nation building.

Temporary foreign worker programs have been both passionately criticized and applauded. They have been analyzed from multiple stakeholder perspectives – employers, workers, governments and unions – and in relation to various thematic arenas, including labour markets, employment standards, communities, health, and so on (see other authors in this issue). The implications of temporary workers and these programs for rights and citizenship have also been taken up (Basok 1999 and 2002, Preibisch 2004, Sharma 2006, Bauder 2007), although such discussions circulate less widely than those focused on employment. My purpose here is to situate temporary worker programs in relation to the concept of *precarious status* in order to contribute to discussions regarding citizenship and nation building – where the latter invokes questions about political community, rights, bases for membership, and belonging. I make a two-fold argument: 1) that temporary worker programs should be understood as one of several elements of policy practice that contribute to precarious status in Canada; and 2) that the connection between precarious status and citizenship needs to be analyzed and debated because it has important implications for citizenship and nation building in Canada.

Since the 1970s, Canadian immigration and citizenship policy has selected immigrants and focused on supporting their transition to settled citizens, creating a nation where membership is framed in civic and multicultural terms. Recent policy shifts establish a two-tier system, with settled residents and citizens and an array of presumably temporary “others.” At the heart of the matter is whether Canada wants to pursue immigration and citizenship policies that entrench legal exclusion and discrimination based on migratory status, and potentially erode rights for all by virtue of reducing or eliminating them for some, or whether Canadians want to develop policies and strategies that provide alternatives, such as expanding social, civil and perhaps political rights for non-citizens, as well as earlier and more effective pathways to citizenship. Debating these issues can contribute to the ongoing process of defining and negotiating Canadian identities, values and norms as well as policies designed to expand social inclusion – for citizens as well as non-citizens in Canada. The discussion is organized into three sections. The first defines *precarious status*. The second situates temporary worker programs as contributing to a form of precarious status. The third section outlines and discusses implications of precarious status for citizenship, inclusion and nation building.

Defining precarious status

Colleagues and I use the concept of *precarious status* to capture the insecurities of “less than full legal status” (Goldring et al. 2007).¹ In Canada, this refers to migratory statuses or categories that are outside citizenship and permanent residence; these categories may change over time.² We defined precarious status as involving the *absence* of any of the following elements normally associated with permanent residence and citizenship³ in Canada: 1) work authorization; 2) the right to remain permanently in the country (residence permit); 3) not having to depend on a third party for one’s right to be in Canada (in the case of a sponsoring spouse or employer, for example); 4) public goods available to permanent

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residents (such as public education, public health, benefits considered as parts of the social safety net, etc., most of which are normally associated with social citizenship); and 5) the right to sponsor family members within policy parameters available to citizens and permanent residents, such as family reunification (Goldring et al. 2007, 2009).

Precarious status can include *legal* or *authorized* statuses such as 1) temporary workers, most of whom depend on an employer for authorization to live and work in the country; 2) students, whose right to work has changed with modifications to rules concerning the number of hours worked, the types of employers, and authorized work and residence period after graduation; 3) refugee claimants; 4) visitors, who do not have work authorization; 5) others awaiting status determinations (including sponsorship), appeals, and so forth. Precarious status also includes individuals in two broad categories of *unauthorized* status: formerly documented people such as visa over-stayers, rejected refugee claimants, or those whose family sponsorship broke down; and people whose initial entry was undetected or undocumented.

This approach to precarious status emphasizes the variability of its manifestations. It also shows that there are multiple pathways to loss of status and unauthorized status, and illustrates the role of policies and changes in administrative procedures that contribute to the production of precarious status (Goldring et al. 2007). Precarious status also offers a way of conceptualizing illegality that is empirically more suited to the Canadian context, where legal entry followed by some form of overstaying is more important than undocumented border crossing.⁴

Perhaps more importantly, this approach questions dichotomous approaches to migratory legal status. Such approaches divide migrants into authorized and unauthorized, or legal and illegal groups. They assume that the boundary between the two is clear and fixed, and that coherent and non-overlapping sets of membership norms, rights, regulations, public benefits, and so forth are associated with each. In this view, migrants end up on the unauthorized side of the divide by breaking laws – by physically entering a country without authorization or overstaying a visa, for example. In contrast, the concept of precarious status points to fuzziness in the boundaries between the authorized and unauthorized. Migrants may end up on the “wrong” side of the line as a result of overstaying or entering without authorization, for example, but they may also fall through the cracks because of confusing, lengthy, or expensive procedures. The line may also move on them due to changes in policies or administrative procedures. Taking a longer view, the boundary may shift over time due to historic shifts in nation-building priorities, conceptions of membership and patterns of state formation (Ngai 2004,

Bosniak 1994 and 2000). Canadian examples of shifting boundaries of membership and citizenship would include the removal of explicitly racist elements from immigration policies, including the end of Chinese exclusion and the introduction of the point system (Simmons 1998). These policies brought more people under the tent of potential Canadian citizenship, and contributed to the construction of multiculturalism as an ideology and state policy.

The binaries of authorized/unauthorized, citizen/non-citizen, permanent/temporary capture significant dimensions of security and rights versus insecurity and vulnerability. However, non-binary approaches such as precarious status⁵ offer at least three additional advantages. First, they capture the realities of and potentially multidirectional movement between various categories that do not necessarily fit into the binary classification. That is, they allow one to view temporary workers as “authorized” yet having precarious status; to consider that individuals with expired visas or permits might apply for regularization (and sometimes obtain it); and to understand that there are variable forms of precarious status, as well as documented and undocumented illegality.

Second, these non-binary approaches highlight the way broader transformations and policies can shape the content and meanings of citizenship and migratory statuses. For example, national citizenship continues to exist, but norms, duties and rights associated with state-citizen relations and the institution of citizenship are changing, as witnessed by disparate trends including supra-national EU citizenship, the neoliberal erosion of national citizenship, and so forth.

Third, they go beyond analyses of binaries (legal/illegal) or particular categories (e.g. temporary workers) and instead offer tools for investigating the systemic relationships between various migratory and citizenship categories, which in turn helps to question how changes in particular categories affect society as a whole, as well as institutions like citizenship, and conceptions of the nation. One example of this would be the broader social implications of the presence of non-citizens and non-residents who have no opportunity or pathway leading to residence and citizenship.

Temporary foreign worker programs and precarious status

Before discussing the implications of temporary worker programs and precarious status for citizenship and nation building, it is important to consider three empirical trends: the rise in temporary workers; the expansion of this form of precarious status; and the potential permanence of temporariness.

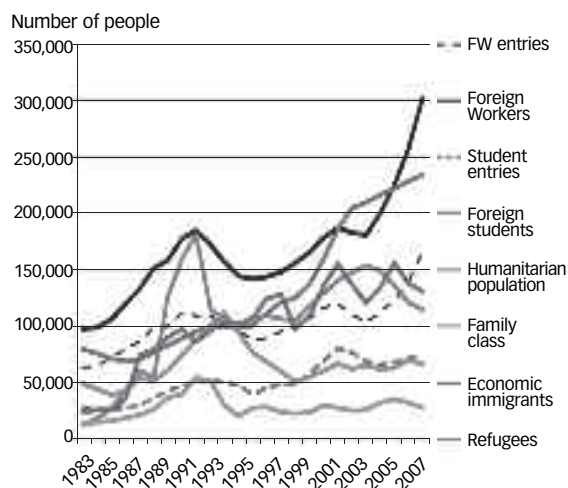
The rise in temporary workers. Canada has stepped up the admission of temporary foreign workers (Sharma 2006,

At the heart of the matter is whether Canada wants to pursue immigration and citizenship policies that entrench legal exclusion and discrimination based on migratory status...or develop policies and strategies...as well as more effective pathways to citizenship.

Preibisch 2007, Hennebry 2009). These programs now bring workers to a number of sectors, under various sub-programs, regulatory frameworks and skill classifications (Elgersma 2007, Hennebry 2009), from a range of source countries (mainly the U.S., France, Mexico and the Philippines) (CIC 2008: 70).

Citizenship and Immigration Canada's *Facts and Figures 2007* provide the most recent publically available data on permanent and temporary entries. In 2007, a total of 165,198 foreign workers entered the country as temporary residents. Adding this to the 137,105 temporary workers already in Canada brought the total to 302,303 foreign workers living and working in Canada on temporary visas. Foreign workers represented 38% of all temporary resident admissions in 2007, which also include humanitarian admissions (mainly refugee claimants), students and others. In comparison, a total of 236,758 people entered Canada as permanent residents. Of these, 131,248 came under the Economic Class and 66,230 under the Family Class, together accounting for 83% of Permanent Residents (CIC 2007).⁶

Figure 1
Canada: Temporary and Permanent Residents, 1983-2007



Source: Adapted from *Facts and Figures 2007* (CIC 2008).

Figure 1 presents data on selected categories of permanent and temporary entry to Canada for the 1983 to 2007 period. It puts the 2007 data in perspective, as it shows that the 2007 numbers for temporary foreign workers and students represent a dramatic increase compared to both earlier years for these same categories, and the number of permanent entries in the economic and family classes. Figure 1 also identifies a turning point (1993 and 1994), as demonstrated by two trends that illustrate the importance of economic and labour market priorities over family unification and humanitarian claims. On one hand, family class entries and refugee admissions began to drop, and humanitarian admissions rose for a time, then dropped following the 2002 passage of the *Immigrant Refugee Protection Act*. On the other, temporary foreign worker and student entries began to increase steadily, as did the totals in these categories. At the same time, economic class migrants

began an uncertain and gradual increase marked by a zigzagging pattern, climbing for a few years then dropping before increasing again.

These patterns throw into sharp relief the increase in the number of temporary foreign workers (TFWs) (and students) and the enduring value attached to economic immigrants. They also point to the ongoing and growing importance of temporary workers as a form of precarious status in Canada.

Temporary entrance categories and the growth of precarious status. Forms of precarious status associated with temporary entrance categories are likely to persist and increase through two mechanisms: 1) as a continuation of the increase in temporary entries as well as the number of temporary residents present in Canada. The current economic crisis may put a dent in the admission of temporary workers (Galloway 2009), but this is unlikely to alter their long-term increase;⁷ and 2) through movement from authorized to unauthorized precarious statuses. It is possible to transition from temporary status to permanent resident status, as when foreign students or refugee claimants become permanent residents. This possibility is, however, extremely limited for most temporary workers; exceptions include those in the Live-in Caregiver Program and the recently created Canadian Experience Class, as well as through the Provincial Nominee Program, which has been used as a pathway to permanent residence for small numbers of workers in some provinces (Elgersma 2007, Byel 2007). What is also possible is movement from authorized to unauthorized precarious status. However, there are no systematic data relative to overstaying for the temporary resident category.

The permanence of temporariness. Temporary workers are not as temporary as the name of this entrance category might suggest might. In her analysis of the Seasonal Agricultural Worker's Program (SAWP), Preibisch (2007: 440) found that although many Caribbean and Mexican workers spend 8 to 12 weeks in Canada, the average duration of stay for workers for an important share of these workers – particularly in the case of Mexicans – is over nine months. Moreover, many workers return year after year (Preibisch 2007). Recent changes to TFWPs have extended the length of permits and made them easier and faster to obtain (HRSDC 2007). Employers can obtain TFWs sooner, and these workers and their employers do not have to apply for new permits as often as used to be the case. It follows that the period of time that individuals spend in entrance statuses designated as temporary will extend both in the context of specific work permits and over the life course. Rather than being temporary, this form of precarious status has the potential of becoming long-term, if not indefinite.

Implications of temporary workers and precarious status for citizenship and nation building

What are the implications of understanding temporary worker programs in relation to precarious status for those interested in citizenship, social inclusion, and nation building?⁸ Why is it important to consider these implications? If precarious status is a growing but under-examined dimension of social exclusion and marginalization, then it is something Canadians need to consider, deliberate, and

debate – rather than ignore. I close by outlining some of the implications of the connections between precarious status and exclusion.

Precarious status is growing and it isn't so temporary.

Temporary worker programs are only one form with precarious status, but the discussion in the previous section indicates that the growing use of temporary foreign worker programs increases the number of people of precarious status. While the language of temporariness and non-citizenship may serve to justify the differential conditions under which temporary workers and people with other forms of precarious status live in Canada (“they are only temporary, and not a permanent part of the nation”), the temporariness appears to be long-lasting.

Precarious status is associated with social exclusion.

The duration of temporariness may not be as central to those more concerned with the legitimated and structured inequities that accompany forms of precarious status. In the case of temporary workers, most of these inequities are linked to the terms and conditions of employment that accompany this entrance status (Basok 1999 and 2002, Preibisch 2004, Sharma 2006, Hennebray 2009). In general, forms of precarious status imply difficult or no access to public goods including health services and education (Oxman-Martinez et al. 2005, Goldring et al. 2007). In other words, precarious status means precarious well-being and differential inclusion and social exclusion. From this perspective, TFWPs contribute to the long-term presence of resident workers with unequal status.

Implications for citizenship and nation.

Immigration policy and citizenship policy are critical to citizenship and conceptions of the nation. Immigration policy determines who is allowed to enter the country and under what terms, while citizenship policy establishes eligibility criteria, rules and timelines for the acquisition of citizenship. Together, they mediate several fundamental aspects of society, citizenship and nation. First, they define the boundaries and composition of formal membership in the political community, and establish the political and civil rights, duties and social benefits associated with this membership. Second, they affect electoral political participation and representation. In the context of liberal democracies, immigration and citizenship policies can shape the landscape of political opportunities as well as the balance of power through regulations about voting rights and the terms of citizenship. Third, in conjunction with related social policy – including multiculturalism policy in Canada – they lay out ideal values concerning the role and management of ethnic, cultural, racialized and other social differences and inequalities. These policies and related ideology also shape implicit and explicit ideals and claims about who is of the nation, and who is (really) Canadian.

Canadian immigration and citizenship policy, together with settlement programs and multicultural policies, has aimed to turn immigrants into settled citizens in a relatively short timeframe. Research on citizenship acquisition confirms that Canadian immigrants do turn into citizens quite readily, particularly compared to those who settle in the United States (Bloemraad 2002). To the extent that people whose status is precarious are not on an effective path to permanent residence, and much less to citizenship, current policy practice will entrench a two-tier membership in Canada, where no pathway leading to formal political participation and where they are not considered members of the nation where they live and work.

Locating temporary foreign worker programs under the *precarious status* rubric does two important things: it makes the connection between an authorized entrance category and the expansion of the precarious status, and it raises normative questions about the growing numbers of people living in Canada without full rights. Others have noted that temporary worker programs generate a class of unfree labour or *workers* (Basok 1999 2002, Preibisch 2004, Sharma 2006, Bauder 2007). This can be taken one step further by asking whether the programs also produce second-class *residents*, friends, neighbours and community members – people who live and work in Canada for long periods of time under conditions of social exclusion. Is this consistent with “Canadian values,” and with what Canadians want? After struggling against inequity and exclusion based on racialization, gender, religion and ethnicity, are people comfortable retaining discriminatory practices based on migratory status? Do Canadians envision their future in a country where citizenship and migratory status determine well-being and inclusion?

My purpose in raising these questions is to generate debate and consider alternative policies aimed at mitigating the vulnerability of people with precarious status, and to contribute to discussion about the future of Canadian citizenship, inclusion and nation building. Activists have already begun to address the vulnerability of some forms of precarious status. One set of options that would warrant discussion might be the expansion of the rights of people with authorized precarious status, such as temporary workers, so that they are covered by the same employment legislation (including the right to organize), labour standards, workplace regulations and health coverage, as permanent residents and citizens – that is, so they are treated like any other worker rather than as mere temporary workers. Questions about citizenship, inclusion and nation building can be debated in a parallel fashion: for example, by considering which rights and benefits should be restricted to citizens and permanent residents, and which might be extended more generally and under what conditions.

While the language of temporariness and non-citizenship may serve to justify the differential conditions under which temporary workers and people with other forms of precarious status live in Canada...the temporariness appears to be long-lasting.

Considering ways of reforming immigration and humanitarian determination systems would also be part of the discussion. An understanding of the concept of precarious status and how temporary worker programs and other policy instruments are linked to it should inform and contribute to these debates.

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Notes

¹ See also Oxman-Martinez et al. (2005).

² The specific status categories might also vary depending on the citizenship regime.

³ The high profile case of Maher Arar is a reminder of the potential insecurity of naturalized citizenship.

⁴ See Goldring et al. (2007, 2009) for a conceptual discussion of the legal production of illegality in Canada (cf. De Genova 2002).

⁵ Menjívar's (2006) concept of liminal legality also offers a non-binary approach.

⁶ Refugees accounted for 12% of permanent admissions in 2007 (CIC 2008). These accepted refugees include government-assisted refugees and are distinct from refugee claimants, who are classified as "humanitarian" admissions and counted under temporary entries.

⁷ Although there are reports that the number of temporary workers may decline next year, it is too soon to know. It is also impossible to determine how long such a decline might last. Such a decline would not alter the argument of this article because the growth of temporary workers over time still holds, as do questions regarding the implications of temporary worker programs and forms of precarious migratory status.

⁸ My response rests on a critical, feminist and communitarian approach to citizenship that understands citizenship as negotiated, contested, changing, and embedded in global and other hierarchies at multiple scales (Bakan and Stasiulis 1994; Lister 1997), and at the same time recognizes the endurance and role of citizenship as a status and political community (see Marshall 1950; Kivisto and Faist 2007). From this perspective, citizenship as a status matters because it involves rights and obligations, which can affect well-being and social inclusion/exclusion. The Marshallian promise of universal citizenship as a counter to the structured inequalities of class is tempered by the understanding that many other inequalities also structure differential inclusion, e.g. racialization, gender, ethnicity, dis/ability, and so forth. In addition to recognizing inequalities within the confines of citizenship, this perspective questions inequalities based on the boundaries of citizenship itself by calling into question difference based on whether one falls within or outside the boundaries of citizenship.

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LE CANADA, PAYS D'ACCUEIL D'IMMIGRANTS : LA FIN D'UNE ÉPOQUE?

RÉSUMÉ

Cet article examine, dans l'optique canadienne, l'importance accrue qui est accordée aux programmes de recrutement de migrants temporaires depuis plus de dix ans, de même que les principales mesures visant l'insertion des minorités culturelles.

Depuis la fin des années 1990, les gouvernements occidentaux opposent les notions d'immigration *utile* – voire indispensable – à l'économie, et d'immigration *inutile* – voire nuisible – à la cohésion sociale et l'identité nationale. Ils militarisent la surveillance des frontières, multiplient les modes de tri des migrants, criminalisent l'immigration en l'associant à la sécurité publique et nationale, au terrorisme et aux trafics mafieux, puis confortent la xénophobie en imposant des tests de conformité linguistique, culturelle et « civique » (contrat de citoyenneté) aux migrants. Ils parlent de culture de la mobilité devant être inculquée aux travailleurs, de migration circulaire, de codéveloppement et de transferts monétaires, tout en « externalisant » le contrôle des migrations dites inutiles. Le Canada, dont les politiques ont souvent servi de modèle, participe-t-il à cette mutation? Oui, il y participe activement. Depuis les années 1990, l'immigration liée au travail est une priorité. Alors que l'immigration familiale constituait 50 % du flux migratoire durant les années 1980 (réfugiés, 18 %; migrants économiques, 30 %), elle représentait 26,4 % en 2004 (réfugiés, 13,9 %; migrants économiques, 56,7 %)¹. La tradition canadienne voulant que tout immigré soit reconnu comme étant un futur citoyen n'est plus un principe de base. En raison de la pénurie de la main-d'œuvre et en dépit d'une hausse des demandes d'immigration permanente, le nombre de travailleurs temporaires a beaucoup augmenté depuis dix ans, alors que celui des réfugiés a diminué. De plus, on note un important changement au Canada : le niveau de pauvreté des immigrants des années 2000 va en augmentant. Par ailleurs, si le respect de la différence culturelle et religieuse individuelle est assuré juridiquement, une certaine partie de la population le conteste. Les attentats de 2001 ne sont pas le fruit de ces changements; ils n'ont fait que les accélérer (Adelman, 2002; Gilbert, 2008).

Contrôle des courants

Selon les données du recensement de 2001, cinq millions des résidents du Canada étaient d'origine immigrante (17 % de la population totale). Ils sont principalement venus de pays d'Asie² à un rythme annuel de 235 000 entre 1991 et 2000 (période durant laquelle le taux d'immigration annuel était de 93 000 en Australie et d'un million aux États-Unis) et de 250 000 depuis 2001. Près de la moitié d'entre eux ne parlaient ni le français, ni l'anglais et les trois quarts s'établissaient à Vancouver, Montréal et Toronto (77 % en 2001, dont 125 000 à Toronto). Les autorités souhaitent augmenter ce niveau à 300 000 entrées afin de contrer les effets du vieillissement de la population³. L'immigration représente les deux tiers de la croissance démographique et, à compter de 2011, si les niveaux actuels sont maintenus, lorsque les membres de la génération du baby-boom quitteront le marché du travail, l'immigration constituera l'unique source de croissance de la main-d'œuvre. Au Québec, on prévoit une hausse de 46 700 à 55 000 en 2010, ainsi qu'une augmentation de la proportion des immigrants économiques (sélectionnés selon des critères économiques) à 72 % de l'ensemble du flux migratoire (le 28 % restant étant composé d'immigrants parrainés, de réfugiés humanitaires et de demandeurs d'asile acceptés) (MICC, 2008).

La sélection : les immigrants permanents

Environ 60 % des migrants sont admis après avoir été sélectionnés selon des critères liés à leurs qualifications professionnelles, leur âge et leur connaissance des langues officielles. 30 % sont admis au titre de la réunification familiale (conjoints, ascendants et descendants directs, soit les frères, sœurs et neveux⁴) et 10 % à 15 % en tant que réfugiés. La proportion réelle d'immigrants sélectionnés, dits économiques, est toutefois de 40 %, puisque le nombre officiel (60 %) inclut leurs dépendants (conjoints et enfants). En 2001, par exemple, ont été admis : 27 800 réfugiés, 66 600 immigrants parrainés et 153 000 immigrants

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économiques, dont seulement 65 700 (43 %) ont été sélectionnés (en 2006, 47 505 ont été sélectionnés réellement). Selon la loi sur l'immigration (novembre 2001, en vigueur depuis juin 2002), qui met l'accent sur le capital humain (scolarité et connaissance des langues) et non plus sur le métier, comme c'était le cas auparavant, un candidat sélectionné doit cumuler 67 points sur 100 (70 points avant 2002) selon les barèmes suivants : 5 points pour un diplôme d'études secondaires, 25 pour un doctorat, 16 pour la maîtrise de l'une des deux langues officielles, 24 pour la maîtrise des deux langues, et 15 à 21 points pour une année d'expérience de travail. De plus, un candidat obtient 10 points s'il est âgé de 21 à 49 ans, 10 points si on lui a fait une offre d'emploi et 10 points pour la capacité d'adaptation, ce dernier critère étant à la discrétion de l'agent qui examine la demande et qui peut choisir d'inclure le niveau de scolarité du conjoint. Il a été proposé, en vain, d'accorder des points aux candidats qui s'établissent hors des trois grands centres urbains. Les candidats doivent payer pour faire une demande d'immigration (1 050 \$ pour un visa de résidence permanente)⁵. En outre, en mai 2001, la Régie de l'assurance maladie du Québec a exclu les nouveaux immigrants et les travailleurs temporaires pour « un délai de carence » de trois mois.

Les travailleurs temporaires

Depuis 1955, des programmes concernant les travailleurs migrants temporaires ciblaient les travailleurs peu qualifiés. Depuis dix ans, ces programmes se sont multipliés et visent maintenant toutes les catégories de main-d'œuvre. Par l'entremise du Programme des travailleurs étrangers temporaires, géré conjointement par Citoyenneté et Immigration Canada (CIC), qui accorde le permis d'entrée et de travail, et Ressources humaines et Développement social Canada (RHDSO), qui définit les besoins en matière de main-d'œuvre étrangère, le Canada admet deux fois plus de travailleurs migrants temporaires que ceux qui sont sélectionnés (excluant les dépendants), soit 75 000 en 1997, 100 000 en 2001, 88 000 en 2003, 142 000 en 2004, 151 000 en 2005, 112 650 en 2006 (d'autres données indiquent 171 000), et 125 000 en 2007 (CIC, 2007). Ils se rendent surtout en Ontario et aussi, récemment, en Alberta, une province qui, en 2007, a accepté 37 000 des 91 000 demandes qu'elle a reçues. Les travailleurs migrants temporaires ne représentent que 0,7 % de la main-d'œuvre. Ils travaillent essentiellement dans le secteur privé et, de ce fait, leurs conditions de travail relèvent des administrations provinciales.

Certains facteurs expliquent cette mutation. En raison d'accords de libre-échange avec les États-Unis et le Mexique, il existe une forte circulation de travailleurs qualifiés, certains d'entre eux demeurant au pays uniquement quelques semaines. Le Canada connaît des pénuries locales et

sectorielles de main-d'œuvre, mais imposer un lieu de résidence aux migrants serait contraire au droit de libre circulation dont jouit tout résident permanent. La demande d'immigration permanente au Canada est très forte depuis dix ans⁶ et, en vertu de la loi, toute demande déposée doit être examinée. Toutefois, une augmentation considérable du budget d'examen et de traitement des demandes exige un vote du Parlement et heurterait les groupes de pression qui s'opposent à la hausse des entrées que générerait forcément pareille mesure. Enfin, l'admission de résidents permanents très qualifiés ne répond pas aux besoins du marché. Le recrutement de travailleurs temporaires pallie ces déficiences : il est rapide (un à trois mois contre deux à trois ans), ciblé et évite tout débat. En raison de ces obstacles politiques, ce type de recrutement est de plus en plus perçu comme une solution aux pénuries permanentes, notamment en matière de main-d'œuvre peu qualifiée, laquelle est passée de 37 % en 1997 à 50 % en 2006 de l'ensemble des travailleurs migrants temporaires. Ce taux correspond à celui des immigrants illégaux qui gagnent le marché du travail européen.

Outre les travailleurs qualifiés circulant dans l'espace de l'ALENA, soit quelque 10 000 personnes par année, le Programme des travailleurs étrangers temporaires vise trois types de main-d'œuvre non qualifiée pour l'emploi, pour laquelle l'employeur doit démontrer l'absence de conflit de travail dans son entreprise ainsi que l'impossibilité d'embaucher un résident permanent. Le Programme canadien des travailleurs agricoles saisonniers (fruits, légumes, fleurs) (PCTAS), lancé en 1966 en collaboration avec la Jamaïque et qui gagne en popularité depuis 1974, repose sur des accords avec le Mexique, Trinidad et Tobago, la Barbade et l'Organisation des États des Caraïbes orientales. Annuellement, il permet l'entrée de 20 000 travailleurs liés à un employeur pour une période maximale de huit mois (coût du visa : 75 \$). En 2005, des 20 274 migrants recrutés, 11 798 provenaient du Mexique; 16 500 ont

été dirigés vers l'Ontario, 2 670 vers le Québec et 551 vers la Colombie-Britannique⁷ (en 2007, au Québec, 1 000 étaient originaires du Guatemala et 3 200, du Mexique).

Les migrantes qui arrivent au pays dans le cadre du Programme d'aides familiaux résidents, créé en 1992, doivent détenir une scolarité équivalant à la Seconde, de même qu'une formation de six mois en soins de santé ou soins des enfants⁸, ou une expérience d'un an dans le domaine, dont six mois avec le même employeur. Elles doivent résider au domicile de l'employeur, et après 24 mois d'emploi, peuvent demander la résidence permanente. Elles posent leur candidature lorsqu'elles sont à l'étranger et sont souvent recrutées par des agences privées (coût du visa : 325 \$). 90 % d'entre elles sont des Philippines. Le statut de résidence permanente est peu souvent accordé à des femmes « soupçonnées » de demander l'asile, des femmes d'origine soudanaise, par exemple.

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Quelque 20 000 travailleuses sont admises, chaque année, en vertu de ce programme, dont 500 au Québec. Le cas québécois est peut-être, à cet égard, caractéristique puisque seulement 10 % des 20 000 aides familiales migrantes vivant dans la province sont enregistrées, les autres étant en situation irrégulière, entrées avec un visa touristique ou diplomatique, ou ayant perdu leur statut (Amnistie internationale, 2007).

Le Programme des travailleurs étrangers temporaires peu spécialisés (PTET-PS) – lesquels ne possèdent pas la liberté de changer d'employeur – permet l'entrée de 10 000 travailleurs par année (Depatie-Pelletier, 2007). D'abord conçu en vue d'admettre des professionnels, il a par la suite été modifié. Depuis juillet 2002, le projet pilote d'embauche de travailleurs étrangers pour des postes requérant des niveaux peu élevés de formation (Ressources humaines et Développement social Canada) permet, en cas de pénuries spécifiques de main-d'œuvre (selon une liste régionale de métiers sous pression), de recruter des travailleurs migrants pour une période maximale d'un an, après avoir affiché l'emploi pendant une durée de huit jours. Les travailleurs migrants assument leurs frais de voyage et, après un an, doivent retourner dans leur pays d'origine pendant quatre mois avant de pouvoir demander une nouvelle autorisation de travail temporaire⁹. Ce programme a permis l'admission de 3 500 travailleurs en 2003 et 2004, et de 4 500 en 2005 (Delta Partners, 2007, p. 15). En janvier 2008, le gouvernement du Canada a ajouté 21 métiers, la plupart non qualifiés, à la liste des 12 métiers sous pression et, en septembre 2007, il a réduit de cinq mois à cinq jours le délai d'octroi de l'avis sur le marché du travail local que doit obtenir tout employeur qui souhaite embaucher un travailleur étranger temporaire. Aussi, depuis 2000, le gouvernement fédéral a signé des accords avec huit provinces, afin que celles-ci interviennent directement dans la sélection de la main-d'œuvre migrante¹⁰, en plus de multiplier les mesures ad hoc. Depuis 2002, grâce au Programme des candidats des provinces (PCP), les travailleurs de certains domaines, parrainés par les gouvernements provinciaux au nom des employeurs, peuvent obtenir rapidement la résidence permanente (p. ex., en Ontario, les métiers liés aux secteurs médical et paramédical, universitaire, à la machinerie et à la construction. Artuso, 2008). Les résultats du programme sont toutefois médiocres : seuls 2 000 migrants ont été acceptés de 2002 à 2007 (AFL, 2007, p. 5). Depuis février 2007, la catégorie de l'expérience canadienne permet à deux types de travailleurs temporaires de demander la résidence permanente sans quitter le Canada, tout en étant assurés de voir leur demande traitée en priorité : les étudiants étrangers ayant complété deux années d'études postsecondaires et possédant au moins un an

d'expérience de travail au Canada; les travailleurs qualifiés (directeurs, professionnels et techniciens) ayant travaillé deux ans au Canada, maîtrisant une des deux langues officielles et détenant une scolarité de niveau secondaire. Une main-d'œuvre possédant des aptitudes testées par des employeurs, estimée à 20 000 personnes, est ainsi rendue disponible rapidement et de façon permanente, tandis que des milliers de candidats à l'immigration attendent que leur dossier soit étudié. En janvier 2008, anticipant une pénurie de 30 000 travailleurs par année, la Colombie-Britannique a signé un accord avec les Philippines afin d'accélérer la venue de travailleurs œuvrant dans les secteurs du tourisme et de la construction (Lee-Young, 2008).

Depuis dix ans, le Canada a mis en application des programmes de recrutement de trois catégories de travailleurs migrants. L'une (environ 50 000) est sélectionnée selon un système de points et accède à la résidence permanente et à la citoyenneté. Une seconde (10 000 et plus) est un produit de l'intégration des économies des États-Unis et du Canada (ALENA); il s'agit d'une main-d'œuvre qualifiée, temporaire, libre de choisir son lieu de résidence et son employeur, qui peut amener des dépendants et, si pénurie permanente dans son domaine il y a, demander la résidence permanente. Une troisième (200 000 et plus) catégorie, temporaire, constitue une main-d'œuvre d'appoint, dont les droits protégés par la Charte canadienne sont peu respectés. Elle comprend trois sous-catégories et les travailleurs qui en font partie n'ont pas accès aux programmes d'accueil et d'intégration publics ou communautaires, puisqu'il n'existe aucune subvention publique destinée à des ONG œuvrant auprès de ce type de migrants. Une partie de cette main-d'œuvre étrangère temporaire n'est pas libre de choisir son employeur et son lieu de résidence, ni même d'avoir une vie familiale. Elle est mal protégée par les lois locales en matière d'emploi¹¹, de santé et de sécurité, et

n'a pas accès à la résidence permanente, en plus de n'avoir aucun droit d'appel en cas d'expulsion. En outre, elle est souvent victime d'abus : rétention de papiers par les employeurs, congédiement et rapatriement par le pays d'origine pour cause de non-notification d'absence du travail pour raison médicale, conditions de logement déplorables (ACPD, 2007, p. 5). Les migrants chinois, moins protégés par leurs consulats que ceux d'origine latino-américaine et antillaise, sont plus exposés à ces abus et de récents drames ont conduit les autorités albertaines et fédérales à se pencher sur la protection de ces travailleurs temporaires. L'Alberta a notamment multiplié les inspections des conditions de travail dans les entreprises qui les embauchent. De façon significative, le Canada, à l'image des États de l'OCDE, refuse, au nom de la

Depuis juillet 2002,
le projet pilote
d'embauche
de travailleurs
étrangers pour des
postes requérant
des niveaux peu
élevés de formation
permet, en cas de
pénuries spécifiques
de main-d'œuvre,
de recruter des
travailleurs migrants
pour une période
maximale d'un an.
[...] Ce programme
a permis l'admission
de 3 500 travailleurs
en 2003 et 2004,
et de 4 500 en 2005.

protection des droits des migrants par la Charte canadienne et de sa souveraineté, de signer la Convention des Nations Unies sur la protection des droits des travailleurs migrants, ratifiée en 1990 par 34 pays et en vigueur depuis 2003.

Contrôle des frontières

Le Canada participe au renforcement du contrôle frontalier. Nommons, par exemple, le Plan d'action États-Unis-Canada sur la frontière intelligente, signé le 12 décembre 2001; le contrôle automatisé de la frontière, depuis 2004; le système informatisé PAXIS¹², cumulant, depuis 2002, des informations sur les 20 millions de passagers arrivant chaque année de l'étranger par voie aérienne; depuis 2002, les techniques de reconnaissance d'iris et d'empreintes digitales des illégaux condamnés à être déportés par le Service des douanes et, depuis décembre 2007, les techniques de reconnaissance vocale (par appel téléphonique). Depuis 2004, l'Accord sur les tiers pays sûrs, intervenu entre le Canada et les États-Unis, oblige à formuler une demande d'asile dans le premier pays d'arrivée, sous peine d'expulsion. Avant cette date, 15 000 demandes étaient présentées par une même personne dans les deux pays, mais en 2005, le nombre de demandes à la frontière terrestre avait diminué de 50 % (Gilbert, 2007). L'Accord a cependant été suspendu par un juge fédéral, le 31 janvier 2008, à la lumière de pratiques irrespectueuses des droits aux États-Unis, comme l'emprisonnement de certaines personnes durant des mois et le renvoi vers un pays pratiquant la torture¹³, et en raison d'une définition plus restrictive de l'asile. En outre, tout demandeur d'asile n'étant pas en mesure de prouver son identité est détenu et, s'il est débouté, n'a pas le droit d'en appeler de la décision et peut être expulsé (12 000 expulsions par année). Par ailleurs, depuis 2001, les musulmans sont victimes de profilage ethnique fondé sur la religion par les autorités, en vertu de la *Loi anti-terroriste* (décembre 2001), laquelle a introduit de nouvelles mesures de contrôle¹⁴.

Faible rendement économique des récentes cohortes d'immigrés

Quelque 60 % des immigrants adultes arrivés depuis 2000 possèdent un diplôme postsecondaire, comparativement à 40 % de l'ensemble des Canadiens. De plus, 35,7 % des migrants arrivés entre 1996 et 2001 détenaient un diplôme universitaire, contre 13,8 % des Canadiens de naissance. En dépit d'un niveau de scolarité élevé et d'une sélection plus sévère, depuis 2002, le niveau salarial de ces immigrants est insatisfaisant (Picot, 2004; Grant et Sweetman, 2004) et leur taux de chômage, élevé. En 2006, ce taux, au Canada, se situait à 5,5 %, et selon une étude réalisée auprès de 650 000 immigrants (Statistique Canada, 2006), il était de 11 % pour les immigrants arrivés durant les années 2001 à 2006, oscillant selon leur provenance (Asie, 11 %; Amérique latine, 10,5 %; Europe, 8,4 %; Afrique, 20,8 %). Seuls les Philippins avaient le même taux de chômage que les Canadiens de naissance, disposant d'un réseau communautaire d'aide bien établi et de longue date, possédant, dans une proportion de 80 %, un diplôme postsecondaire et parlant l'anglais à leur arrivée. À l'opposé, les immigrants africains avaient de nettes difficultés; 20 % sont des réfugiés qui, n'ayant pas en main tous leurs documents, n'arrivent pas à s'intégrer rapidement au marché du travail. Ceux-ci forment de nouveaux courants

migratoires, lesquels ne disposent pas de réseau communautaire local d'aide à l'emploi. Par ailleurs, le taux de chômage des immigrants arrivés au cours des années 1996 à 2001 se situait à 7,3 %, alors que celui des immigrants établis avant 1996 était de 5,5 %. La situation était tout aussi difficile au Québec. En effet, en 2006, le taux de chômage provincial était de 6 %, tandis que celui des immigrants arrivés avant 1996 se situait à 9 %, celui des immigrants de 1996 à 2001 à 13,4 % et celui des immigrants arrivés entre 2001 et 2006 à 18,7 % (Afrique, 27,1 %; Amérique latine, 15,4 %; Asie, 13,3 %; Europe, 13,2 %). Selon les données de Statistique Canada, en 2000, les hommes immigrants obtenaient 63,1 cents pour chaque dollar gagné par un Canadien de naissance de même niveau scolaire¹⁵, alors que ce rapport se situait à 71,6 cents en 1980 pour les hommes arrivés au pays cette même année. De plus, les hommes immigrants depuis dix ans recevaient en moyenne 79,8 cents par dollar gagné par un Canadien de naissance possédant le même niveau de scolarité; ce rapport était égal en 1980 (1 \$ pour tous). Enfin, mentionnons que jusqu'au début des années 1980, il fallait dix ans aux immigrants pour rattraper le retard qu'ils accusaient en raison de leur manque d'expérience canadienne. La situation des immigrants arrivés depuis les années 1980, dont une fraction est musulmane, apparaît donc comme étant défavorable.

Diverses raisons expliquent ce faible rendement :

- l'abolition d'emplois manufacturiers occupés par les immigrants peu qualifiés, souvent parrainés;
- l'exigence d'un plus haut niveau de scolarité pour les nouveaux postes de travail;
- l'exigence d'une maîtrise élevée du français ou de l'anglais pour occuper un nouvel emploi demandant certaines qualifications;
- la hausse du niveau de scolarité des Canadiens de naissance;
- la difficulté ou le refus des autorités, des corps de métiers et des corporations de reconnaître la valeur des qualifications acquises à l'étranger mais non attestées par un diplôme;
- en dépit de la Loi sur l'équité en matière d'emploi et de l'initiative Faire place au changement, visant à améliorer le recrutement des minorités visibles (2000), un faible taux d'embauche par la fonction publique fédérale de la main-d'œuvre immigrante, en raison du préalable de bilinguisme pour de nombreux postes;
- la discrimination à l'embauche;
- deux périodes de récession économique.

La multiplication du nombre de travailleurs migrants temporaires transforme le modèle canadien, le rendant contradictoire. En fait, d'une part, il demeure fondé sur le principe que tout migrant est un résident à part entière de même qu'un futur citoyen; d'autre part, il multiplie le nombre de travailleurs temporaires qu'il accueille, sans toutefois protéger systématiquement leurs droits. Ce modèle est donc à l'origine de mesures et de conséquences inédites depuis 40 ans : un contrôle croissant pour assurer leur retour (des travailleurs temporaires), une hausse du nombre de

travailleurs illégaux, la modulation de programmes selon les besoins des employeurs, la mise en place de mesures ad hoc pour faire des travailleurs temporaires les plus utiles des résidents permanents, une hostilité d'une certaine partie de l'opinion publique en raison de la pression exercée sur les salaires et de l'allongement des délais de traitement des candidatures déposées à l'étranger. Cette contradiction montre bien que l'immigration représente un enjeu politique très conflictuel, au Canada. Ainsi, devant l'ampleur des débats qui entourent tout vote ou amendement d'une loi concernant l'immigration, aucun parti politique n'ose proposer des solutions, lesquelles sont pourtant souvent envisagées au moment de la sélection des nouveaux immigrants. Au nombre des mesures envisagées, nommons le droit des gouvernements de limiter le nombre de candidatures à l'immigration afin d'accélérer leur traitement et l'entrée de futurs travailleurs permanents, ou encore une sélection économique des parrainés, en quelque sorte justifiée par le rendement médiocre des récentes cohortes d'immigrants (Sweetman, 2006).

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Notes

- ¹ En comparaison avec les États-Unis, 60 % d'immigration familiale et 15 % à 16 % d'immigration liée au travail.
- ² En 2001, ont été sélectionnés : 40 282 Chinois; 27 899 Indiens; 15 342 Pakistanais; 12 884 Philippins; 9 613 Coréens; 5 920 Américains; 5 726 Iraniens; 5 586 Roumains; 5 510 Sri Lankais; 5 349 Anglais.
- ³ Le ministre de l'Immigration, Denis Coderre, a parlé d'un déficit à venir d'un million de travailleurs. Le ministère de l'Industrie a pour sa part fait état d'une pénurie de 50 000 travailleurs qualifiés en 2010.
- ⁴ Obligation de subvenir aux besoins pendant une période de trois ans pour les conjoints et de dix ans pour les autres parents.
- ⁵ Une plainte a été déposée par Alan Hinton et Irene Popapova de Coquitlam contre le ministère fédéral de l'Immigration et 702 millions de dollars ont été réclamés au bénéfice des immigrants ayant acquitté ces frais du 1^{er} avril 1994 au 31 mars 2004. Les plaignants invoquent la *Loi sur la gestion des finances publiques*, qui stipule que les frais payés par des usagers ne peuvent excéder le coût du service offert (Keung, 2008).
- ⁶ En novembre 2007, 850 000 demandes étaient en attente, selon un délai variable : 40 mois pour les parents et les grands-parents parrainés (11 mois à Londres, 19 à Mexico City, 30 à Colombo, 34 à Beijing, 36 à Rabat et au Guatemala, 40 à Islamabad, 45 à New Delhi); 62 mois pour les immigrants sélectionnés (14 mois à Lima, 15 à Paris, 31 à Vienne, 54 à Londres, 59 à Rome, 62 à New Delhi, 64 à Beijing, 71 à Kiev); 9 mois pour les conjoints (Panetta, 2008). Le budget de février 2008 prévoit 22 millions de dollars supplémentaires sur deux ans pour moderniser le système d'immigration et mettre en place une nouvelle législation en vue de réduire les temps d'attente.
- ⁷ Le Conseil canadien d'horticulture voudrait permettre l'embauche de visiteurs étrangers sans permis de travail, augmenter les déductions fiscales des employés afin de couvrir entièrement les frais de l'assurance médicale et ne plus lier les quotas de main-d'œuvre étrangère au taux canadien salarial en vigueur.
- ⁸ Il existe quelque 800 écoles offrant ce type de formation aux Philippines.
- ⁹ Selon une enquête (Delta Partners, 2007), les employeurs souhaiteraient une extension du contrat de travail à deux ans ainsi que le droit d'entrée et de travail des conjoints et enfants.
- ¹⁰ L'Ontario ne figure pas parmi les signataires; le Québec détient ce pouvoir depuis 1992.
- ¹¹ Les travailleurs étrangers temporaires œuvrant dans le secteur agricole sont dans une situation particulière : ils sont exclus, comme tout travailleur agricole canadien, de la législation en matière d'emploi dans la plupart des provinces, hormis l'Ontario, depuis 2006 (régissant le domaine de la santé au travail, les vacances, les pauses, les heures supplémentaires et la sécurité).
- ¹² Agence des services frontaliers du Canada.
- ¹³ Au Canada, il existe un moratoire de renvoi vers l'Afghanistan, le Burundi, le Congo, Haïti, l'Irak, le Libéria, le Rwanda et le Zimbabwe.
- ¹⁴ Droit de la police de procéder à des perquisitions secrètes, droit de ne pas transmettre des éléments de la preuve, droit de faire l'écoute de communications avec des correspondants à l'étranger sans contrôle judiciaire, droit de détention préventive de 72 heures sans motif, droit d'enquêter sans mandat et d'interrogatoire obligatoire devant un juge sous peine d'emprisonnement pendant un an.
- ¹⁵ 40 % des immigrés des années 1990 âgés de 25 à 54 ans détenaient un diplôme universitaire contre 23 % des Canadiens de naissance du même âge.

MARGINALIZING MIGRANTS: CANADA'S RISING RELIANCE ON TEMPORARY FOREIGN WORKERS

ABSTRACT

This article examines Canada's rising reliance on temporary migration to meet domestic labour market needs. The phenomenon is discussed in historical, political and economic contexts. The article argues that temporary labour migration is problematic, and that both migrants and Canada would better be served by renewing the link between migration, permanent residency and citizenship in Canada.

Economic pressures and employer preferences have long been major forces in shaping Canadian immigration policy. Periods of mass migration have typically been prompted by domestic labour shortages and the need to import immigrants to work in Canada's farms, forests, factories, mines and infrastructure-building projects. Conversely, times of economic downturn and diminished demand for labour have prompted tighter restrictions on immigrant admissions. In short, Canadian immigration policy has often reflected Canada's economic and workforce needs as defined by government and employers.

In recent years, Canada has dramatically increased the number of migrants admitted as temporary foreign workers (TFWs). Is Canada now embracing a "guest worker" model of migration to address its labour market needs? This would constitute a fundamental departure from traditional terms of migration to Canada. In the past, immigration has been an instrument of nation building, with Canada treating immigrants as "citizens in waiting." And the waiting period has been relatively short – immigrants as permanent residents are eligible for naturalization and Canadian citizenship after living in the country for three years. Today, through rising reliance on temporary foreign workers, we run the risk of entrenching an underclass of marginal migrants with limited prospects of permanent residency in Canada. This article examines the drivers and consequences of Canada's rising reliance on temporary migrants. Is this a "just-in-time" migration policy for neo-liberal times?

Temporary labour migration: Then and now

Temporary labour migration programs are not new in Canada. As early as the 1880s, Canada adopted a temporary migration scheme to assure the construction of its greatest transportation mega-project: The Canadian Pacific Railway. While approving the admission of thousands of Chinese labourers to work on the railway's western portion, Prime Minister John A. Macdonald made it clear he was opposed to their permanent settlement in the country. Declaring that "either you must have labour or you can't have the railway," Macdonald nonetheless pledged that following the project's completion, he was committed to "preventing a permanent settlement in this country of Mongolian or Chinese immigrants" (Kelley and Trebilcock 1999: 95).

Not for the last time did Canadian temporary migration programs have a distinctly exclusionary racial dimension. Indeed, such programs have typically been designed to regulate the admission of desperately needed non-White, foreign labour in occupations offering working conditions and wages shunned by the native-born population.

Throughout the 20th century, Canada adopted a variety of temporary migration programs designed to admit migrants from the global south as domestic and agricultural labour. Over the past decade, however, Canada has seen an unprecedented expansion of temporary foreign worker admissions. The growth has been both in numbers of admissions and in the range of occupations covered.

In 2008 (the most recent year for which such numbers are available) Canada admitted 192,519 temporary foreign workers. This is an extraordinary number in several respects. First, it is more than the total of 149,072 permanent residents who entered Canada under the Economic Immigrant Class in the same year. And second, it is *four times* greater than the number admitted as principal applicants under the point system that same year (CIC 2008). In other words, Canada now relies far more on guest

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workers than on the point system to meet its labour market needs. Indeed in two provinces – Alberta and British Columbia – the number of TFWs admitted in 2008 exceeded the total of all categories of permanent resident newcomers combined.

Temporary foreign worker admissions in Canada have climbed sharply of late. From 2004 to 2008, temporary foreign worker admissions across the country increased by 71.4%. In the same period, the number of permanent resident, immigrant admissions increased by only 4.8% (CIC 2009).

Canada's temporary foreign workers are admitted to Canada under three distinct migration programs. Each entails constrained migrant rights. The Live-in Caregiver Program and Seasonal Agricultural Workers Program have been in place for several decades. Both seek to fill labour shortages in hard-to-staff occupations. And both programs combine "carrot and stick" provisions to keep migrants on these jobs.

The Live-in Caregiver Program requires selected domestic workers to live in their employer's home. The reason to stay is the opportunity to apply for permanent residency, and ultimately Canadian citizenship, after two years of living and caregiving in the employer's home. In recent years, between 2000 and 6500 live-in caregivers, overwhelmingly from the Philippines, have been admitted to Canada annually (CIC 2009).

The second longstanding temporary migration program has been designed to import agricultural workers for periods typically ranging from six to nine months per year. These migrants sign a work contract in advance, specifying the farmer they will work for and the requirement to return to their homeland (typically Mexico or Jamaica) once the contract expires. Employer evaluations of employees determine whether they will be invited back to Canada under the Program the following year. And while in Canada, government regulations exclude these migrants from coverage under such basic labour laws as collective bargaining legislation, employment insurance, occupational health and safety. Nor are these workers ever eligible for Canadian citizenship, despite the fact some have worked here year after year for decades. In recent years between 16,000 and 18,000 migrant farm workers have been admitted to Canada annually under this program (CIC 2007).

While they are admitted under the longest-running and best-known temporary migration programs, live-in caregivers and seasonal farm-workers accounted for just over 10% of all temporary foreign workers admitted to Canada in 2007. The vast majority of TFWs work in a broad range of occupations stretching from high- to low-skilled. They enter Canada under the third framework in place, the recently expanded Temporary Foreign Worker Program (TFWP).

This polarized reliance on TFWs at the extremes of the labour market has become a common phenomenon in

advanced Western states. As Martin, Abella and Kuptsch have observed: "Guest workers tend to be concentrated at the extremes of the job ladder, with more or less education than the average worker in the destination country" (Martin, Abella and Kuptsch 2006: 54).

Canada's experience fits this pattern. In 2008, the last year for which comprehensive immigration statistics are available, 36.7% of all TFWs were skilled (in managerial, professional, technical and trades positions), and 34.2% were unskilled workers (in service, clerical and labour positions). The skill level of the remaining 29% was unstated (CIC 2009).

Why has Canada expanded its reliance on temporary foreign workers?

"Creating the world's most flexible workforce" in Canada

Over the past three decades, neo-liberalism – described by Katharyne Mitchell as "an ideology of world market domination" – has been the pre-eminent approach to government policy across Western states (Mitchell 2004: 12). Canadian immigration policy in particular has bent sharply to accommodate market interests and principles. Immigrants have generally been regarded as economic inputs paying their own settlement and integration costs.

Since its election in 2006, the government of Prime Minister Stephen Harper has been especially resolute in aligning immigration policies with market and employer interests. Soon after taking office, it introduced a national economic plan titled *Advantage Canada: Building a Strong Economy for Canadians*. The plan aimed to "gain a global competitive advantage" for Canada in five key areas including "creating the world's most flexible workforce" (Department of Finance Canada 2006: 6).

Cabinet ministers in Prime Minister Harper's government have been explicit in promoting a "quicker fix" regime of immigration admission to meet immediate employer needs. In his Budget of February 2008, Canada's Finance Minister Jim Flaherty declared that Canada is committed to establishing a "just-in-time" competitive immigration system" that expeditiously delivers migrants to jobs where they are needed (Department of Finance Canada 2008). A month later, in the midst of booming economic growth, then-Minister of Citizenship and Immigration Diane Finley told CBC Radio: "Everywhere I go I'm hearing the same thing: that employers are looking for skilled workers and unskilled workers and they need them now" (*The Current* 2008).

For the Government of Canada, the solution to the country's labour shortages lay in expediting and expanding the admission of temporary migrants. As then-Minister of Human Resources and Social Development, Monty Solberg stated in late 2007: "Canada's New Government is taking steps to improve the Temporary Foreign Worker Program so we can help ease some of the pressures businesses face when dealing with labour shortages" (HRSDC 2007).

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The Canadian government took several steps to expand the TFW Program. The length of eligible stay for unskilled TFWs was extended from 12 to 24 months. In 2007, Temporary Foreign Worker Units were opened in five cities across Canada to expedite admissions. Regional Occupations under Pressure Lists were established, identifying high-need occupations for quick entry. British Columbia's list, for instance, contains 237 different occupations ranging from high tech and professional to unskilled manual and service work.

By early 2008, temporary work permits were taking just 32 days to process (Keung 2008a: A18). This compares with 4-5 year wait times for permanent resident applications. In turn this reflected the government's commitment of staffing resources to temporary over permanent resident applications. It was by design, not accident, that – as noted earlier – far more newcomers were admitted to Canada as TFWs in 2007 than as Economic Class permanent residents.

Significantly, applications under the TFW Program are employer – not migrant – driven. This of course is unlike the protocol for permanent residents, who file their own applications to settle in Canada. Conversely, it is employers who apply for temporary migrants to be admitted to Canada for employment. Both symbolically and practically, the employer takes ownership of the temporary foreign worker's admission to Canada.

After posting a job vacancy for just seven days, an employer can apply to bring in a temporary foreign worker. Applications are approved if filling the position is deemed beneficial to the Canadian economy. Unasked is whether the problem facing employers is a shortage of labour or shortage of wages being offered to attract workers in Canada.

Indeed, temporary migration programs may well be the means to avoid having to improve working conditions and wages in order to attract sufficient labour. As Kerry Preibisch and Luz Maria Hermoso Santamaria have noted: "Research on migrant workers underscores how labour-importing states use temporary visa programs to create and maintain a pool of highly exploitable and socially excluded workers" (Preibisch and Santamaria 2006: 109).

The economics of temporary labour migration

A recent study of migrant labour in the global economy contends that abuse of migrant labour "is not only widespread but is part of the structure of key industries in the global North" (Shelley 2007: 6). This reflects the highly polarized nature of contemporary advanced economies. As early as 1990, the Economic Council of Canada in a landmark study characterized the economy as divided between "Good

Jobs, Bad Jobs." More recently, Jim Stanford and Leah Vosko have noted that intensified global competitiveness and corporate profit goals have unleashed renewed efforts to contain and reduce labour costs in the Canadian economy. The objectives of Canadian business and governments, they state, have been the creation of "a more disciplined, hard-nosed labour market, with employers better able to hire and fire as they wish, with workers who are committed to being compliant, and with strict limits on compensation levels" (Stanford and Vosko 2004: 13).

The creation of such a labour market is state-constructed. Over the past 20 years, a variety of government measures have contributed to this weakening of labour's leverage: cuts to social assistance and employment insurance, erosion of collective bargaining and employment standards legislation.

The rising reliance on temporary foreign workers has been – in Canada as elsewhere – an important means of achieving labour flexibility and cost containment.

Temporary foreign worker programs create an entire stratum of vulnerable workers. These are workers who typically have no right to switch employers or jobs, whose stay in Canada depends on the employer being satisfied with their work conduct and performance, who know little about Canadian labour laws, may not speak English or French, are often socially isolated during their stay here and must leave the country when their work permits expire.

Much has been written about how these dynamics adversely affect workers in Canada's longest standing temporary worker programs for agricultural and domestic workers. As noted earlier, however, the vast majority of temporary workers in Canada today are employed beyond these "traditional" temporary labour sectors.

Several recent reports paint a troubling picture of the work and living conditions now awaiting TFWs in a far broader occupational spectrum. Space does not permit elaboration here of the poor and sometimes illegal wages, housing, health and safety conditions these migrants can experience in Canada. Suffice it to cite the headline of a story published in *The Economist* in November 2007 titled: "The Temporary Foreign Workers Pouring into Canada are Often Exploited" (*The Economist* 2007).

What future for temporary foreign workers in Canada?

The bubble of great expansion of temporary labour migration into Canada may now have burst. The deepening economic downturn underway since late 2008 may reduce labour shortages, and therefore demand for "just-in-time" foreign workers. Yet there are reasons to believe demand from employers for TFW may stay strong.

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to process. This
compares with
4-5 year wait times
for permanent
resident appli-
cations....It was
by design...that far
more newcomers
were admitted to
Canada as TFWs
in 2008 than as
Economic Class
permanent
residents.

Some occupations do lack sufficient domestic labour. This is especially true in skilled manual trades in the construction, oil and gas sectors. Additionally, a slower economy may entail greater pressures on employers to cut operating costs. And TFWs at the lower skill end of the labour market can be a more pliable – or in the words of *The Economist*, a more exploited – workforce whom employers may wish to continue deploying.

And what of the 201,057 total stock of temporary foreign workers who were in Canada as of December 2007? (CIC 2008). Most will see their work visas and legal right to remain in Canada expire soon. Will Canada become the confirmation ground of the European truism that “there is nothing more permanent than a temporary foreign worker”? Faced with the choice of “going underground” to continue working and living in Canada, or returning to poorer homeland economic prospects, many temporary migrants in Europe opt for the former. Canada’s non-status population may be about to surge as many two-year visas issued under the expanded Temporary Foreign Worker Program come up for expiry.

This is an apt time to re-think Canada’s approach to labour migration. Canada has historically done well linking migration to Canada with citizenship acquisition. This has been poorly handled through the TFW Program. In 2008 the Canadian government announced that *some* TFWs would be eligible to apply permanent residency and ultimately naturalization under a new “Canadian Experience Class.”

Unfortunately, class distinctions loom large in this pathway to citizenship. It applies only to skilled migrant workers – typically professional and managerial – rather than to semi- and unskilled. Additionally, there is a cap on the number of TFWs who can become permanent residents under this provision. Only 8,000 openings are available to the close to 400,000 temporary foreign workers and foreign students currently in the country. Interestingly, as of late 2008, only 210 applications had been received for permanent residency under the Canadian Experience Class (Keung 2008b). This low figure may be due to several factors: poor promotion of the Canadian Experience Class by government to migrants; difficulty of TFWs acquiring the two years of work experience required for eligibility; or disinterest among highly educated TFWs with high human capital in permanently settling here.

It is precisely the TFWs ineligible to apply for permanent residency (the less skilled) who are more likely to be enthused by permanent residency and citizenship in Canada. Generations of Canadians have become citizens through the sweat and dedication they have contributed to Canada. Today’s semi- and unskilled temporary foreign workers deserve the same opportunity.

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RESTRICTIONS ON RIGHTS AND FREEDOMS OF LOW-SKILLED TEMPORARY FOREIGN WORKERS

Policy Alternatives Deserving Consideration

ABSTRACT

A portion of the temporary foreign workers admitted for work in low-skilled occupations in Canada are subjected to major restrictions to Charter-based rights and freedoms. This administrative condition has been associated by researchers, community groups, etc. to systemic human and labour rights abuses, which points to the fact that a specific combination of alternatives policies should be given serious consideration by policy-makers.

Temporary foreign workers and restrictions on rights and freedoms

Some workers admitted under temporary work authorizations to work in a low-skilled occupation in Canada are subjected to a unique combination of obligations: they are not allowed to seek employment elsewhere, must live on-site in housing that is provided by the employer, and are not allowed to apply for permanent resident status (CIC 2008a). These restrictions may all be applicable if workers, depending on the program that brings them in to Canada, are admitted under one of the five followings categories: LS-1, domestic worker of a representative or employee of a foreign government; LS-2, low-skilled worker employed by a foreign company; LS-5, Mexican or Caribbean worker under the Seasonal Agricultural Worker Program (SAWP); LS-6, worker under the Live-in Caregiver Program (LCP); or LS-7, worker in other low-skilled occupations (see Table 1). These workers can therefore be considered under “servile status” according to the terms of the 1957 *UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (Depatie-Pelletier 2008a).

Temporary work programs and Charter-based rights and freedoms

These administrative restrictions constitute obstacles to exercising rights and freedoms considered to be fundamental for all residents under the *Canadian Charter of Rights and Freedoms*. Specifically, these are namely the rights to *liberty and security of the person* (Arat-Koc and Villasin 1990, Bals 1998, Basok 1999, Langevine and Belleau 2000, Alternatives 2001, etc.), to *freedom of association* (UFCW 2002-2007, NSI 2005, Kairos et al. 2006, etc.), and to *equal protection and benefit of the law without discrimination based on sex* (Macklin 1992, Bakan and Stasiulis 1997, Stasiulis and Bakan 2002, NAPWC 2008, etc.) *and/or national origin* (Satzewich 1989, Ng 1992, Cohen 1994, Schecter 1998, Sharma 2006, Depatie-Pelletier 2008a, etc.).

Increasingly documented human and labour rights abuses

Since 2002, preference for the admission of foreign workers within the Canadian labour market has increasingly been given to temporary work authorization (see Figure 1).

The Canadian labour force being more educated and organized than ever, and foreign workers without professional skills being virtually ineligible for admission in Canada under permanent status since 1996 (Beach et al. 2005), the number of foreign workers with no specific skills (under the open work permit) admitted annually in the Canadian labour market has been on the rise since 2002. Human Resources and Social Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC) have furthermore successfully simplified, publicized and prioritized procedures for hiring foreigners under the three main temporary work schemes for “low-skilled” occupations associated with the imposition of a “servile status” (CIC 2007a/2008a, HRSDC 2007/2008) (see Figure 2).

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Table 1
Restrictions on rights and freedoms, by category of foreign workers
holding valid temporary work authorizations as of December 1, 2006

	Workers admitted without validation of the job offer by HRSDC (see CIC 2008a)					Workers admitted under a work permit tied to a specific HRSDC pre-authorized employer				
	Authorized by law to work without permit			Open work permit	Quasi-open work permit	(S-4) Other skilled workers	If working for a Canadian employer			
	(S-1) selection of skilled workers	If working for a foreign employer		(LS-3) Workers admitted with no specific skills	(LS-4) Selection of temporary residents		(S-2) Selection of skilled workers	(LS-5) SAMP	(LS-6) LCP	(LS-7) Other low-skilled
		(LS-1) Domestic workers	(LS-2) Other low-skilled workers							
Thousands of workers in Canada	Not included in official statistics			34	155	41		37		
Prohibited to change employer		X	X				X	X	X	X
Forced to live in employer accommodations		X	X ^a				X ^a	X	X	X ^a
Unable to change status freely		X	X ^b	X ^b	^c			X	X	X ^b
No access to work/study permits for spouse and children		X	X	X	X ^c			X	X	X

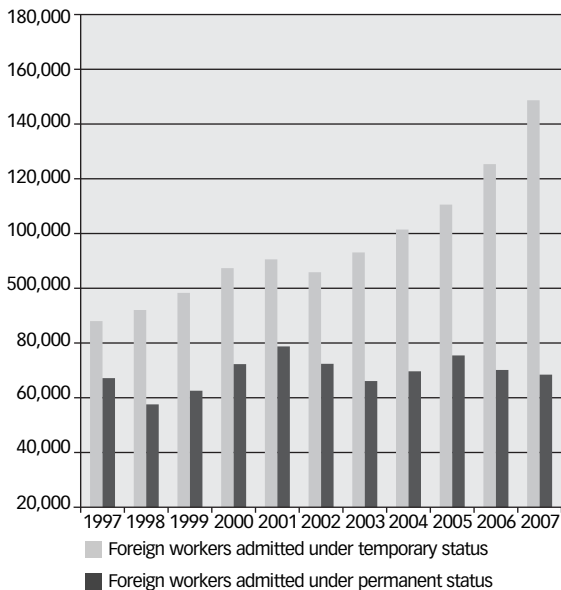
^a If included by the employer within the initial work contract.

^b Exceptions apply to workers in Quebec who have skills that are valued under the immigration grid.

^c Exceptions apply to Study Permit holders.

Source: CIC 2008a and Depatie-Pelletier 2007, 2008a, 2008b.

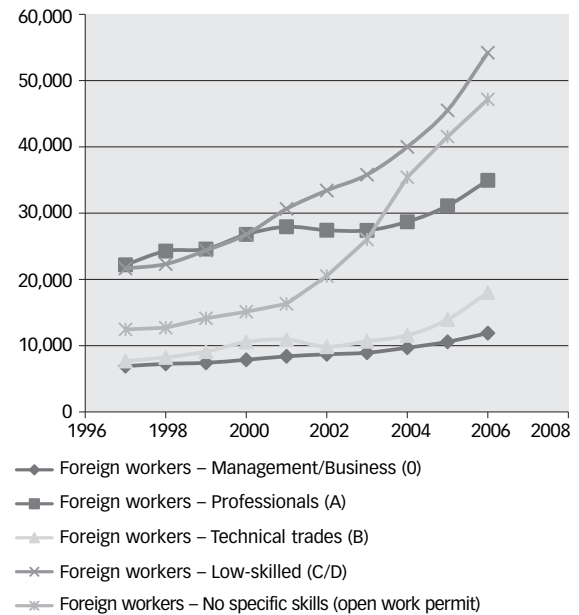
Figure 1
Annual admissions of foreign workers registered in Canada



Source: *Facts and Figures 2007*, Citizenship and Immigration Canada.

The rise in workers under restrictive work permit has resulted not only in easier access to “legally captive” labour for Canadian employers – including Canadian families with no access to public care services for children and elderly (Darenzer 1993, Stasiulis and Bakan 2002, Sharma 2006, Laliberté 2007, etc.), but also in an increase of documented abuses of foreign workers’ human rights by employers and

Figure 2
Admissions in Canada of foreign workers under temporary work permit, by skill level (1997-2006)



Source: *Facts and Figures 2007*, Citizenship and Immigration Canada.

placement agencies (J4MW 2003, Oxman-Martinez, Hanley and Cheung 2004, Pinay 2006, Amnistie Internationale/SCF 2007, Osmani 2008, etc.) and their labour rights (UFCW 2005-2007, CLC 2007, AFL 2007, etc.). In this context, it would be safe to conclude that current administrative restrictions can no longer be considered to be demonstrably

justified in a free and democratic society – as required for administrative restrictions on fundamental rights to be constitutional in Canada.

Towards the protection of migrant workers rights: A multi-level policy

If the human rights of all (im)migrant workers under temporary status are to be protected in Canada, a multi-level reform needs to be implemented by the federal and provincial governments. In particular, the following alternative policies should simultaneously be given serious consideration: 1) work permits valid for *all* employers authorized to hire foreign workers in a specific occupation, economic sector or province; 2) removal of *any* legal obligation to live with one's employer; 3) hiring authorizations only for provincial sectors where workers are allowed to bargain collectively are fully covered by health and safety legislation, and have their employer fully co-responsible in case of abuse by a placement agency; 4) access to work/study permit for spouse/children of *any* worker admitted under temporary work authorization and the right for them to leave Canada temporarily at any time during the work permit's validity period; 5) access to government-funded community integration programs for newcomers, and not only contribution but also full access to provincial public programs and employment insurance (EI); and, finally, 6) autonomous access, upon arrival if admitted for work in a specific sector (such as domestic work or the agro-food industry) affected by recurring, permanent or increasing labour shortages, otherwise *anytime* after a maximum of 24 months of work experience in Canada (Kairos and al. 2006, UFCW 2007, (I)MWR and al. 2007, AFL 2007, CLC 2007, AAFQ 2008, etc.).

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ÉQUITÉ EN MATIÈRE DE SANTÉ ET DE SÉCURITÉ AU SERVICE DES TRAVAILLEURS MIGRANTS TEMPORAIRES

Problématique du remplacement de la main-d'œuvre canadienne

RÉSUMÉ

Le recours aux travailleurs migrants temporaires est une façon de combler les besoins en main-d'œuvre dans les secteurs agricole et manufacturier, secteurs où les travailleurs sont surexposés au risque de lésions professionnelles. Malgré la reconnaissance des lacunes en matière de santé et de sécurité dans la réglementation touchant aux travailleurs migrants temporaires, aucune étude ne s'est penchée sur le traitement équitable de ces travailleurs.

Au cours des prochaines années, le Canada ainsi que les pays d'Europe et d'Océanie devront élaborer des stratégies pour contrer la pénurie de main-d'œuvre et maintenir leur croissance économique (Pascoe et coll., 2002; Global Development Finance, 2003; OIT, 2004). Au nombre des solutions mises de l'avant, les programmes de migration temporaire présentent un fort potentiel pour ce qui est du renouvellement de la main-d'œuvre. En 1998, le Canada accueillait 65 978 travailleurs temporaires pour une première entrée au pays. En 2007, ce nombre atteignait 115 470, soit une augmentation de 75 % en neuf ans (CIC, 2008, p. 68). Cette stratégie est déjà mise en application pour résoudre les problèmes de recrutement dans certains secteurs industriels où les conditions de travail et de rémunération sont peu alléchantes pour la population locale. Les secteurs agricole et manufacturier, notamment, figurent parmi les secteurs qui réclament le développement et la bonification des programmes de migration temporaire afin de surmonter leur pénurie de main-d'œuvre (Martin, 2003).

Les expériences bilatérales entre les importateurs et les exportateurs de main-d'œuvre transnationale ont toutefois connu maints ratés. Les craintes les plus souvent soulevées par les pays importateurs de cette main-d'œuvre temporaire sont le non-retour des travailleurs dans leur pays d'origine, les conflits syndicaux quant aux normes salariales et les plaintes concernant les conditions d'hébergement. En outre, la Commission mondiale sur les migrations internationales (CMMI) rappelle aux pays importateurs de main-d'œuvre qu'ils ne sont pas les seuls à être préoccupés par les conditions des travailleurs temporaires (CMMI, 2005). Les programmes de migration temporaire devraient être revus à la lumière des besoins économiques des pays d'origine et de destination. Il faut réexaminer ces programmes afin de fournir aux travailleurs temporaires des conditions de travail suffisamment intéressantes pour qu'ils puissent effectuer des allers-retours annuels entre leur pays hôte et leur pays d'origine, qu'ils n'aient pas à s'établir dans leur pays hôte, et qu'ils puissent vivre convenablement, ainsi que leur famille, l'autre partie de l'année, dans leur pays d'origine (CMMI, 2005).

Les analyses de ces programmes de migration temporaire ont relevé plusieurs lacunes. Une première critique souligne le manque de rigueur dont font preuve les administrations et des employeurs quand vient le temps de circonscrire leurs besoins en main-d'œuvre pour ce qui est des travailleurs qu'ils ne peuvent ni recruter ni former localement (Ruhs, 2006). La seconde critique fait un bilan de la législation et des pratiques touchant aux travailleurs migrants dans certains pays. Elle aborde notamment la pratique qui consiste à convertir le permis de résidence temporaire en permis de résidence permanente – une formule détournée pour aller chercher une immigration permanente sans garantir l'ensemble des conditions aux immigrants dûment reconnus (Cholewinski, 2005). Et finalement, les programmes de migration temporaire sont taxés de laxisme quant aux moyens déployés pour faire respecter les conditions minimales de travail, d'hébergement et de transport des travailleurs temporaires (Ruhs, 2003).

À ce jour, aucune étude ou critique n'a examiné dans quelle mesure les droits consentis par les pays hôtes aux travailleurs migrants temporaires, relatifs à la santé et à la sécurité du travail (SST)

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étaient respectés. Pourtant, cela fait des décennies que la recherche démontre clairement l'existence de problèmes en matière de SST dans les secteurs agricole et manufacturier, secteurs où les travailleurs migrants sont omniprésents. Il s'agit d'un constat assez sombre, qui dénonce la surexposition des travailleurs migrants à des lésions professionnelles graves et irréversibles (Windau, 1997; Frumklin et coll., 1999; Peek-Asa et coll., 1999).

Problématique de la santé et de la sécurité au travail chez les travailleurs migrants

Depuis des décennies, les spécialistes de la SST et de l'accès à l'indemnisation tentent d'interpeller les décideurs du milieu politique et de la production économique au sujet des accidents et des maladies professionnelles chez les travailleurs migrants. Dès les années 1970, des études européennes et nord-américaines ont mis le doigt sur deux grands problèmes : 1) la surexposition des travailleurs migrants aux risques de lésions professionnelles et 2) la sous-déclaration des lésions et les difficultés d'accès à l'indemnisation (Opfermann, 1977; Frumklin et coll., 1999; Peek-Asa et coll., 1999; Wren et Boyle, 2001; Henshaw, 2002; AESST, 2007).

Surexposition aux risques de lésions professionnelles

Dans plusieurs pays importateurs de main-d'œuvre transnationale, dont la France, l'Allemagne, la Suède, l'Australie et les États-Unis, on estime que le risque d'être victime d'une lésion professionnelle chez les travailleurs migrants est de deux à trois fois supérieures que chez les travailleurs nationaux (Alcorso, 1988; Robinson, 1989; Wren et Boyle, 2001). De plus, les lésions sont généralement plus graves et irréversibles. En outre, les taux de cancer des voies respiratoires, de brûlures en tous genres, de pertes d'un membre par mutilation et de décès par homicide sont beaucoup plus élevés chez les travailleurs migrants, et ce, sans égard à leur statut (permanent ou temporaire) ou à leur durée de séjour dans le pays (Sorock et coll., 1993; Frumklin et coll., 1999; Windau, 1997). Les causes de cette surexposition sont nombreuses et se conjuguent. Nous sommes en présence de causes structurelles liées au marché de l'emploi et aux entreprises, et de causes personnelles.

Les travailleurs migrants en quête d'un travail leur permettant de s'insérer économiquement ont principalement accès à des emplois dans les secteurs industriels où les conditions de travail sont précaires, le taux de roulement du personnel est élevé et les risques de blessures sont considérables. Il s'agit entre autres des secteurs de l'agriculture, de la construction, de la manutention et des services. Dans le secteur de la culture maraîchère, par exemple, les travailleurs sont exposés aux pesticides et aux insecticides associés aux cancers et aux brûlures (Frumklin et coll., 1999). Dans le secteur agricole, ils travaillent avec des

machines dont les éléments coupants peuvent être responsables de mutilations et de sectionnements. Quant au secteur des services, certains postes comportent des risques très élevés d'agression physique, voire d'homicide; c'est le cas notamment des services de nuit où les employés doivent manier des sommes d'argent (p. ex., dans les stations-service, les haltes routières) (Lopez et coll., 2000).

Bien que les risques à la SST soient reconnus dans ces secteurs d'emploi, les travailleurs n'ont pas systématiquement accès à des programmes de formation. À cause de leur petite taille, les entreprises dans ces secteurs ne sont pas nécessairement assujetties au contrôle des services de surveillance de la SST. Les travailleurs y sont rarement réunis en associations ou en syndicats, des regroupements qui ont généralement un pouvoir d'influence sur la mise en œuvre et le respect des mesures de SST. Les entreprises qui disposent d'une infrastructure pour former leur main-d'œuvre réduisent considérablement l'exposition aux risques. Malheureusement, rares sont celles qui adaptent leur formation aux habiletés linguistiques de leurs travailleurs migrants ou allophones (Nash, 1996).

La difficulté à maîtriser l'une ou l'autre des langues officielles du pays figure parmi les facteurs « personnels » contribuant à la surexposition des travailleurs migrants aux lésions professionnelles. Leur méconnaissance des lois et des structures de SST et leur niveau de scolarité font également partie de ces facteurs (El Batawi, 1997; WISH, 2002). Soulignons que les formations et les consignes de sécurité sont généralement données soit en français, soit en anglais. Mais dans une situation d'urgence, le stress, l'agitation et la confusion diminuent la capacité de compréhension de la majorité des gens. Cela est d'autant plus vrai pour les allophones. Les travailleurs migrants qui maîtrisent le mieux les consignes de sécurité sont

ceux qui y ont été initiés par leurs compatriotes dans leur langue maternelle (Krahn, 1990; Nash, 1996; Premji et coll., 2008). De plus, les travailleurs étrangers méconnaissent souvent les mesures de SST, parce qu'ils sont originaires de pays qui ne disposent pas d'infrastructure de SST ou qui peinent à les mettre à jour pour des raisons économiques ou politiques.

Par besoin d'insertion économique, les travailleurs migrants, scolarisés ou non, acceptent des emplois dans des secteurs de production où les lésions professionnelles sont fréquentes. Phénomène singulier, les travailleurs issus de milieux très scolarisés, de pays en voie de développement ou non, et formés pour exercer des professions libérales (p. ex., médecin, ingénieur) sont davantage exposés aux lésions professionnelles parce qu'ils n'ont pas acquis les habiletés requises pour exécuter certaines tâches de manutention, exigeantes sur le plan de l'effort physique ou comportant des mouvements répétitifs (Gravel et coll., 2001).

Dans plusieurs pays importateurs de main-d'œuvre transnationale [...] on estime que le risque d'être victime d'une lésion professionnelle chez les travailleurs migrants est de deux à trois fois supérieures que chez les travailleurs nationaux.

Les études effectuées dans le domaine ne distinguent pas les travailleurs selon leur statut. Par contre, il est bien connu que les secteurs d'emploi où se concentrent les risques de lésions graves et irréversibles sont ceux qui manquent chroniquement de main-d'œuvre et embauchent des travailleurs saisonniers venus du Sud, des immigrants récents ou des sans-papiers (Lopez et coll., 2000). En général, ces travailleurs connaissent tous, sur une période d'un an, au moins un cas de lésion, mais rares sont ceux qui le déclarent (Lee et coll., 2003).

Sous-déclaration des lésions professionnelles et l'accès à l'indemnisation

Comme pour la surexposition aux lésions professionnelles, la sous-déclaration des lésions chez les travailleurs migrants s'explique par des causes structurelles et personnelles. Les études sur l'accès à l'indemnisation démontrent que les obstacles à l'accès aux systèmes d'indemnisation sont multiples et peuvent surgir à différentes étapes du processus (Azaroff et coll., 2002; WISH, 2002; Dembe et coll., 2003). Quand l'événement se produit, le milieu de travail ne soutient pas le travailleur blessé ou souffrant d'une maladie d'origine professionnelle et ne l'encourage pas à déclarer sa situation ou à réclamer des indemnités. Quand le travailleur amorce les démarches de réclamation, les médecins traitants, le syndicat et les services administratifs de l'indemnisation sont autant d'acteurs nécessaires et incontournables du processus. Mais ils peuvent, que ce soit par inadvertance ou par négligence, freiner ou bloquer le processus d'indemnisation (Gravel et coll., 2006). Au moment de retourner au travail, le travailleur ayant bénéficié d'indemnités devrait pouvoir, en théorie, réintégrer son poste ou être affecté temporairement à une tâche plus légère. Mais le milieu de travail de nombreux travailleurs migrants propose rarement une affectation temporaire. Ceux qui ne bénéficient pas d'une indemnité salariale sont fréquemment contraints, en raison de la perte de revenu, de reprendre le travail sans être complètement rétablis. Ils s'exposent ainsi au risque de rechute (Stunin et coll., 2004; Maier et coll., 2004). Qui plus est, parce qu'ils sont moins productifs en raison de leurs limitations ou de leurs maux, plusieurs sont congédiés dans les jours ou les semaines suivant leur retour au travail (Gravel et coll., 2008).

Les craintes de représailles de la part des employeurs incitent les travailleurs migrants à ne pas déclarer les lésions qu'ils subissent. Par exemple, dans le secteur de l'hôtellerie en Californie, 97 % des travailleurs interrogés avaient subi une lésion professionnelle au cours de 1998, mais aucun n'avait réclamé une indemnisation (Lee et coll., 2003). Ces

travailleurs hispanophones et d'origine asiatique avaient pourtant bénéficié de consultations en médecine du travail et en réinsertion au travail, services offerts par les organismes de leurs communautés respectives. Mais même avec un tel soutien, ils préféreraient retourner sans déposer une réclamation, et ce, malgré les maux et les limitations fonctionnelles (Lashuay et coll., 2002).

En règle générale, les travailleurs temporaires gagnant un salaire inférieur, qu'ils soient immigrants ou non, craignent les pertes financières encourues par le temps d'arrêt, le coût des procédures et surtout les frais juridiques dans les cas où l'employeur conteste leur droit aux prestations (Morse et coll., 1998). Ces appréhensions sont malheureusement fondées puisque près de 40 % des travailleurs subissent une perte de revenu substantielle

liée au délai de carence (Morse et coll., 1998). À ces craintes s'ajoutent celle, non fondée, de perdre le droit à la citoyenneté, à la résidence ou au parrainage, crainte qui découle de l'ignorance des droits du travailleur et du citoyen (Gravel et coll., 2001).

Toutes ces études empiriques, réalisées dans divers pays, ne tenaient pas compte du statut des travailleurs migrants, les renseignements sur ce statut étant rarement fournis dans les fichiers publics de santé et de sécurité au travail. Les études ont pour la plupart été réalisées dans des communautés ethniques ou des secteurs industriels précis, en tenant généralement compte du pays de naissance des travailleurs, de leur langue maternelle, ou de la langue parlée au travail. Les données sur lesquelles les études se fondent proviennent de croisements entre des fichiers d'immigration et d'enquêtes sur l'insertion au travail (Smith, 2007), ou encore de croisements entre des fichiers d'admissions hospitalières et de demandes d'indemnisation (Alcorso, 1988). Seuls les registres de lésions professionnelles d'États américains précisent l'origine ethnique des travailleurs (les catégories

citées sont : hispanophone, asiatique, blanc et afro-américain) (Flynn, 2007). Dans la majorité des pays, les renseignements précis sur l'origine ethnique des travailleurs migrants sont obtenus grâce à des sources indirectes (Gravel et coll., 2008).

Santé et sécurité des travailleurs migrants temporaires

Nous sommes moralement dans l'obligation de nous interroger sur l'application équitable des mesures de SST au profit des travailleurs migrants temporaires, d'autant plus si nous prenons en considération :

- L'ensemble des données probantes dont nous disposons sur la SST des travailleurs migrants;
- La main-d'œuvre dont l'industrie canadienne a besoin pour maintenir sa croissance économique;

Ceux qui œuvrent dans le domaine de la SST souhaitent rappeler aux responsables des politiques et aux politiciens que nos lois et nos structures de SST sont un fleuron de notre démocratie et de notre engagement envers le respect des droits humains sur le plan de la santé, de la sécurité et de la dignité.

- Les besoins actuels et croissants en main-d'œuvre temporaire du secteur agricole et du secteur manufacturier et de la manutention, tous deux reconnus comme présentant un risque élevé de lésions professionnelles.

Malgré la croissance de la migration temporaire, bon nombre de questions demeurent sans réponse claire. De quel type de protection bénéficient les travailleurs migrants temporaires sur le plan de la santé et de la sécurité en milieu de travail? Peuvent-ils se prévaloir des mêmes droits que les travailleurs réguliers durant leur séjour et à l'avenir (p. ex., soins, indemnités, réadaptation, réinsertion dans le milieu de travail)? Qui les informe des mesures de SST? Dans quelle langue reçoivent-ils leur formation et les consignes en SST? Qui les prend en charge quand ils sont victimes d'une lésion (p. ex., le système de santé, le système de SST, la compagnie d'assurances de l'employeur, le programme de migration temporaire)? Quelles sont les conditions de prises en charge quand il s'agit d'une lésion grave ou irréversible? Ont-ils le droit de continuer à séjourner au Canada? Doivent-ils retourner dans leur pays? Si oui, qui défraie les coûts de transport?

Conclusion

Le milieu de la santé et de la sécurité au travail et celui de la médecine du travail sont bien conscients de l'intérêt du Canada en regard de la migration temporaire comme solution aux pénuries et au vieillissement de sa main-d'œuvre. Toutefois, les répercussions à court et à long termes des programmes de travailleurs étrangers temporaires sur les milieux de travail devraient être étudiées de près. Quelles conséquences le traitement inégal ou inéquitable des travailleurs migrants temporaires exerce-t-il sur les conditions de SST de l'ensemble de notre main-d'œuvre? Quelles sont les responsabilités, en matière de SST, des entreprises ayant recours à cette main-d'œuvre temporaire? Sachant que lois et les normes relatives à la SST sont de compétence provinciale tandis que les programmes d'immigration sont de compétence fédérale, qui est chargé de veiller au respect des normes? Quelles instances assureront la surveillance épidémiologique?

Ceux qui œuvrent dans le domaine de la SST souhaitent rappeler aux décideurs et aux politiciens que nos lois et nos structures de SST sont un fleuron de notre démocratie et de notre engagement envers le respect des droits humains sur le plan de la santé, de la sécurité et de la dignité. Nous espérons que le Canada, en tant que pays importateur de main-d'œuvre transnationale, saura traiter équitablement les travailleurs migrants temporaires qui contribuent à l'essor économique de notre pays.

Le Canada devrait agir en chef de file dans le processus de révision des programmes de migration temporaire réclamée par la CMMI. Les instances politiques fédérales responsables de l'immigration ainsi que les instances provinciales chargées de la SST doivent veiller à ce que les travailleurs temporaires bénéficient de conditions de travail équitables et sécuritaires qui leur permettent de faire des allers-retours entre le Canada et leur pays d'origine et de vivre dignement, sans limitations fonctionnelles, quand ils sont de retour chez eux (CMMI, 2005).

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NOT JUST A FEW BAD APPLES: VULNERABILITY, HEALTH AND TEMPORARY MIGRATION IN CANADA

ABSTRACT

With the support of CERIS Ontario Metropolis Centre and the Public Health Agency of Canada, this research identifies the myriad of health risks for international temporary migrants in agriculture, and characterizes the factors that may increase their vulnerability. Based on a quantitative survey of nearly 800 temporary migrants in agriculture, carried out in partnership with the United Food and Commercial Workers Union, this research points to three important realities: 1) temporary migrants are a *vulnerable population* due to largely *structural* factors, 2) there are *transnational* health implications of temporary migration, such that, when temporary migrants become ill, they are unlikely to receive adequate treatment and thus return home with the illness unresolved, and 3) *risk, vulnerability* and *transferability* are compounded for this group and consequently, concerns regarding migrant health, particularly with respect to communicable/infectious, food-borne and water-borne disease, need to extend beyond the individual worker to both to migrants' home communities and Canadian communities.

As employment of temporary migrants in Canada increases in response to employer demand, it is important to recognize that health and safety of temporary migrants impacts health and safety across Canadian workplaces and Canadian communities. Moreover, temporary migrants, particularly those in lower-skilled jobs, may be more vulnerable to health risks than are resident workers. In addition, temporary migration, by its circular nature, has transnational health risks and implications for migrants, families and communities in sending and receiving countries.

Canadian temporary labour migration has reached a historical high, with 192,519 temporary migrant workers admitted in 2008, and 251,235 temporary migrant workers present in Canada on December 1st, 2008. The number of temporary migrants entering Canada's lower-skilled occupations was 65,801 in 2008 (CIC 2009). Combined with those already working in Canada, there are sizeable numbers of temporary migrants in lower-skilled occupations (nearly 100,000), many of whom have entered Canada under the new Pilot Project for Occupations Requiring Lower Levels of Formal Training (NOC C and D)¹ (referred to as the "NOC C and D Pilot"). In lower-skilled occupations there was a 122% increase in employer requests for temporary migrant workers between 2005-2007, resulting in a jump from 29,281 confirmed temporary worker positions in NOC C and D levels in 2005 to 66,014 positions in 2007 and 101,917 by 2008 (HRSDC 2009c).² Comparatively, requests for foreign workers in higher-skilled occupations increased by 39% during that same period. Furthermore, between 2005 and 2007 there was a 265.7% increase in the number of confirmed foreign worker positions in Alberta and a 91.4% increase in Ontario (HRSDC 2008).³ Across Canada in 2007, there were 155,704 confirmed Temporary Foreign Worker *positions*, most of which (over 80,000) were in the top ten lower-skilled occupations (NOC C and D).⁴ By 2008, the number of confirmed positions rose to 176,368, with nearly 60% concentrated in lower-skilled occupations (HRSDC 2009c).

Employment of temporary migrants in Canadian agriculture has increased significantly within the last 15 years. This is largely in response to employer demand for workers through both the Seasonal Agricultural Worker Program (SAWP) (from fewer than 5000 in to roughly 20,000 yearly) and through the NOC C and D Pilot, with the majority concentrated in Ontario. In 2008, there were 27,740 confirmed positions on labour market opinion confirmations under the Seasonal Agricultural Worker Program, 18,539 of which were in Ontario (HRSDC 2009c). In 2007, when the SAWP was combined with the NOC C and D Pilot, about 30,000 confirmed foreign worker positions were concentrated in the agricultural sector. Another 2,041 workers were hired as food, beverage and tobacco processing attendants, 6,005 as food counter attendants, and 1,609 as butchers and meat cutters, and so on. (HRSDC 2008).⁵ This suggests that a growing share of occupations with high rates of workplace injury, and with a direct connection to the Canadian food system, include foreign worker positions.

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Growing employer demand for temporary migrant workers across lower-skilled occupations, and program developments such as the Expedited Labour Market Opinion (E-LMO) will no doubt further increase the number of temporary migrants in Canada, particularly in lower-skilled jobs. Although the Foreign Worker Program is framed as temporary, the impacts on Canadian workplaces and communities, and likely on immigration flows, are likely to be far more enduring.

Structural vulnerability and health risks among temporary migrants in agriculture

As temporary migration increases and program developments are implemented nationally, governments must consider the health implications of all forms of temporary migration in Canadian workplaces and communities. Research must also respond to this changing workforce and examine what the impacts of lower-skilled temporary migration will be on worker health and rights (both for temporary migrants and residents). It must also take into account which difficulties temporary migrants will face in accessing health services, as well as legal and insurance frameworks that are designed for residents. To begin answering some of these questions about health and temporary migration in the agricultural sector, the remainder of this article outlines the preliminary findings of the largest quantitative survey, to date, of temporary migrants in Canada.

From the extensive body of research on temporary migration in U.S. agriculture, it has been established that agricultural temporary migrants should be considered a *vulnerable population*. Indeed, migrant workers work in a dangerous industry, are often members of an ethnic minority, have difficulty in accessing health care, and are often of lower socio-economic status (Cooper et al. 2004, Frank et al. 2004). Researchers have found that these migrants experience poor living and working conditions, heightened health risks, and suffer from high rates of musculoskeletal disorders, pesticide and fertilizer-related conditions (e.g. chronic respiratory symptoms or skin health), injuries, and communicable diseases (Cameron et al. 2006, Villarejo 2003).

Temporary migrants employed in Canadian agriculture likely face health risks analogous to those in the US. Indeed, a growing body of research suggests that temporary migrants in Canadian agriculture face increased health risks. Research has pointed specifically to heightened risks due to the following: legal status tied to the employment contract; working during the months that correspond with high rates of enteric/food-borne/water-borne disease transmission; unprotected/ untrained use of pesticides and farm equipment; social exclusion, poor access to transportation and communication barriers; and poor and overcrowded housing (Bolaria 1992, Henneby 2008, McLaughlin 2007, Preibisch 2004, PHAC 2007, Weston 2000).

This largely qualitative research on temporary migration in Canadian agriculture has often been dismissed as anecdotal and providing evidence of little more than “a few bad apples” or isolated experiences. With the support of CERIS (Ontario Metropolis Centre) and the Public Health Agency of Canada (PHAC), and in partnership with the United Food and Commercial Workers Union (UFCW),⁶ a quantitative survey of temporary migrants in Ontario’s agricultural sector has been carried out in order to ascertain the extent to which these vulnerabilities can be characterized as structural and broad-based experiences for temporary migrants in agriculture. Standardized questionnaires were administered to nearly 600 temporary migrants working in agriculture across Southern Ontario (n=576), with most respondents from Mexico and Jamaica entering Canada through the Seasonal Agricultural Worker Program (SAWP). The questionnaire covered a range of themes: migration history, skills transfer and training, health status and history, occupational health risks/protections, living conditions, contact with and access to health care, health coverage, and support services, etc. Findings pertaining to living conditions, working conditions, and access to health care and insurance will be presented in the following sections.

Living conditions

Nearly 150 of the migrants who were interviewed agreed with the statement that “my residence is hazardous to my health.” Common problems that were identified were crowded housing, poorly ventilated rooms, lack of adequate cooking and washing facilities, untreated water supplies, and living in close proximity to pesticides and fertilizers. In fact, nearly 50% of temporary migrants interviewed claimed that their housing was inadequate with respect to at least two factors on a housing condition matrix that was compiled from thirteen indicators designed to measure living conditions (crowded, poorly ventilated, etc.). During follow-up qualitative questions on living conditions, migrants claimed:

The tap water smells and tastes bad...I don't know if it's contaminated with pesticides.

The space where we live is very small...there is nothing to divide the space.

The kitchen is right next to the washroom.... There are no beds, just some mattresses on top of one another.

Water in the house is putrid. We cannot drink, cook, or brush our teeth. Scratches in skin get itchy and infected after bathing. Clothes, hair, and skin smell rotten. We have to fill up juice jars from the farm's barn about 1 mile away. There is no washroom in our building; we use a bottle at night.

Canadian temporary labour migration has reached a historical high, with 192,519 temporary migrant workers admitted in 2008, and 251,235 temporary migrant workers present in Canada as of December 1st, 2008.

Poor, crowded housing is not only uncomfortable and arguably inhumane, but it also exacerbates health risks, and further increases the risks of communicable disease transmission (e.g. tuberculosis), and sexually transmitted diseases (e.g. HPV and HIV). While not *all* migrant worker housing is inadequate, it is most surely *inconsistent*. This is in part because housing for temporary migrants in agriculture is under-regulated. There are no specific federal guidelines with respect to housing capacity, proximity to pesticides, access to clean drinking water, proper ventilation, for example (HRSDC 2009b). As well, monitoring and enforcement vary by region and province, and farm housing does not typically fall under provincial tenant law (the *Residential Tenancies Act* in Ontario, to name but one).

Working conditions

Migrant workers also face significant health risks that are tied to their working conditions, in particular because they must perform repetitive tasks and heavy lifting, and are untrained and unprotected in handling chemicals in the workplace. When asked if they have received health and safety training, most Mexican workers said that they had not received any training (62%), while 35% of Jamaican workers stated that they had not received training related to health and safety. Nearly half of the respondents who work in direct contact with chemicals apply them without such necessary protection as gloves, masks, and goggles, thus exposing themselves to harmful substances that may cause various viral, respiratory, neurological and physical illnesses. For example,

We don't have anything to protect ourselves. We have to buy the necessary equipment, such as boots and gloves. I have been suffering from constant infections on my skin from fumigations.

I apply chemicals without protection. We have to work under extreme heat conditions; sometimes some of us vomit and get headaches, itchy skin and blurred vision.

In addition, poor field sanitation and untrained use of fertilizers heighten the potential for increased points of human contact with food and water-borne diseases, as well as potential food contamination (e.g. E. Coli and salmonella). In particular, the untrained and unprotected use of fertilizers (e.g. manure) and irrigation systems, poor field sanitation, and poor food handling practices (e.g. lack of gloves, contact with human or animal waste, lack of washing facilities) put the TFWs at risk of contracting these diseases. Almost half of the respondents indicated that they have no access to a washroom or washing facilities

while working. For example, one worker stated: *"There are no portable washrooms [where we work]...If I have to go...I go in the field or I wait until I go home. There is also nowhere to wash your hands."* Despite these concerns, fear of repatriation means that migrants are less likely to report unsafe practices or refuse unsafe work: *"Supervisors threaten to replace us with Cambodians if we don't work hard enough. Employees are repatriated for reporting abusive supervisors or dangerous workplaces."*

These working conditions impact migrant health and heighten health risks for workers. Health problems are commonly cited by workers, such as: exhaustion (65%), back pain (60%), muscle fatigue (52%), headache (41%), leg cramps (40%), joint pain (35%), and burning or itching skin (34%). For example, one worker said: *"I have headaches and feel dizzy two to three times a week...I started feeling sick when we began the pruning."* Given these findings, it is not surprising that many workers 55% (almost three hundred migrants) agreed with the statement that their work was hazardous to their health.

Poor, crowded housing is not only uncomfortable and arguably inhumane, but it also exacerbates health risks, and in particular, further increases the risks of communicable disease transmission and sexually transmitted diseases.

Access to health care and insurance

When temporary migrants experience symptoms or injuries, they face significant barriers to accessing adequate care, including dependence on the employer for transportation and access to health insurance, language barriers, fear of reprimand, termination of their contract and repatriation. Although most workers attribute the health problems they reported to work (69%), less than one quarter of these workers reported seeing a doctor in Canada about these symptoms. As the following quotes from migrant workers show, there are many barriers to accessing care:

A person who drove over my foot did not want to get in trouble – so I did not report it. Also, I did not have a health card.

When we get sick, we tell our employer but he doesn't do anything nor takes us to the doctor. He tells us that that's why bikes are for.

Migrants identified fear of repatriation or loss of work as a common barrier to accessing health care. Nearly half of all workers (45%) stated that their co-workers work while sick because they are afraid of the employer, and 55% do not want to lose hours of paid work. Of those that have sought care, many indicated facing language problems when communicating health concerns to health care workers (46%). Although SAWP migrants are eligible for the Ontario Health Insurance Plan (OHIP) upon entry into Canada, almost 20% of workers interviewed (over 100 workers) said that they did not have an (OHIP) card.

For migrants in the NOC C and D Pilot, there is a three-month probationary period during which time they do not have access to OHIP, but employers must provide private health insurance to workers. However, out of fear of loss of employment, lack of information about the coverage, or due to the up-front costs of receiving care, most migrants opt to postpone medical visits or treatment, especially during this probationary period. These barriers to accessing health care mean that many workers continue to work without treatment, often returning to their country of origin sick or injured. For SAWP migrants who return yearly, these health problems can persist without treatment and may mean that workers are refused entry to the program in following years. In addition, migrant workers also face barriers to accessing Workplace Safety and Insurance Board compensation (WSIB). Among those workers interviewed who have had work-related accidents, 76% reported not receiving compensation. Survey responses also show that few migrants are aware of WSIB (93% said that they did not know how to file a WSIB claim), and in many cases migrants are repatriated or return to countries of origin before claims are filed or processed. There are also challenges tied to determining workplace injury or illness, and difficulties following up on claims from outside the country.

Another factor that further compounds the barriers to accessing health care is that temporary migrants have invested time and energy to come to Canada (often borrowing money to pay recruiting agency fees or deposits to the IOM⁷). If faced with termination of employment, many choose to remain in Canada. While searching for another employer before the expiry date of their work permit, temporary migrants cannot legally work for another employer, and have no access to public health care. Moreover, since housing is typically arranged through the employer (or on work sites), workers are likely to be evicted upon termination. There is no mechanism in place to assist workers to locate alternative employers with valid LMOs, so those who choose to stay in Canada are likely to become unemployed, homeless and without access to health care. Moreover, after their work permits expire, many become non-status migrants, and find themselves in an arguably more vulnerable position.

Conclusion

In 2007, the World Health Organization (WHO) stated that many migrants are vulnerable to health risks during movement and often experience poverty, marginality, and limited access to social benefits and health services. The WHO also noted that temporary lower-skilled migrants, and seasonal migrants in particular, are often concentrated in sectors and occupations that have high levels of occupational health risks. In Canada, lost time claims for injury in manufacturing, services, construction, food, services and agriculture (where NOC C and D and SAWP migrants are employed) in Ontario are particularly high (WSIB, 2007). Aside from being employed in occupations with high injury rates, temporary migrants participating in Canada's NOC C and D Pilot or the SAWP, are particularly *vulnerable*, due to a number of predominantly structural factors that heighten health risks for this group (Figure 1).

Figure 1

Top ten factors that heighten vulnerability for NOC C and D and SAWP migrants in Canadian agriculture

1. Migration status and access to health care, which are tied to employers/employment contract
2. Concentration in occupations with high rates of accidents/injury
3. No *independent* reporting mechanism (for health violations/abuse) and appeals process
4. Inadequate rights and protections to enable fair labour representation
5. Inconsistent/inadequate housing guidelines and under-regulated housing
6. Social exclusion, poor access to transportation, language barriers, illiteracy
7. No mechanism to assist workers in switching employers or sector-specific work permits
8. No direct path to permanent residency
9. LMO process has no consequences for employer infractions (e.g. health/safety violations)
10. Debts to third-party recruiters/intermediaries

Findings from this research support a number of related arguments pertaining to temporary migration in Canada. First, many of the factors that increase vulnerability for lower-skilled temporary migrants are *structural*, and therefore related to the policies, practices and institutional and legal frameworks (noted in Figure 1), rather than to the choices or actions of individuals. Second, there are *transnational* health implications of these vulnerabilities, such that when temporary migrants become ill, they are unlikely to receive adequate treatment and thus return home with the illness unresolved. Third, *risk*, *vulnerability* and *transferability* are compounded for this group and consequently, concerns regarding migrant health, particularly with respect to communicable/infectious, foodborne and waterborne diseases (hepatitis A/B, tuberculosis, HIV/AIDS, salmonellosis, E. coli, etc.) need to extend beyond the individual worker to migrants' home communities and Canadian communities. Finally, this research provides support for the argument that temporary migrants in agriculture (and arguably other low-skill occupations) face heightened vulnerability to health risks that are not only *structural but also pervasive*, and not simply a case of exceptional circumstances or "just a few bad apples."

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Notes

¹ "NOC C and D" refers to the National Occupation Classification System codes for occupations that are generally considered "lower skill." Skill Level C – one to four years of secondary school education, up to two years of on-the-job training, training courses or specific work experience; and Skill Level D – up to two years of secondary school and short work demonstration or on-the-job training – for example, General Farm Worker is NOC 8431.

² In addition to the exclusion of the Seasonal Agricultural Worker Program in the calculation of these statistics, not all temporary migrants require an LMO to obtain a work permit. A number of exemptions exist, including those provided for in the *General Agreement on Trade in Services* and the *North American Free Trade Agreement*.

³ These data were extracted in February 2008 from an operational database by HRSDC. These numbers may differ slightly from those reported in earlier or later tables due to adjustments to administrative data files as normally occur over time and reflect refinement in methods of calculation for the purpose of increasing accuracy.

⁴ HRSDC provided this Foreign Worker System (FWS) data extraction (January 2009a). The estimated number of Temporary Foreign Worker (TFW) positions refers to the number of Labour Market Opinion (LMO) applications that were given either a positive or a neutral opinion (confirmation) between January 1 and December 31, 2007.

⁵ These data were extracted in February 2008 from an operational database by HRSDC. According to HRSDC, these numbers may differ slightly from those reported in earlier or later tables due to adjustments to administrative data files as occur over time and reflect refinements in methods of calculation for the purpose of increasing accuracy.

⁶ This survey was also designed and carried out with assistance from Enlace Community Link, Dr. Kerry Preibisch (University of Guelph), Dr. Janet McLaughlin (IMRC) and numerous graduate and community research assistants: Bibiana Alcalá (WLU), James Restrepo (UWO), Evelyn Encalada (OISE/UT), Haley Milkins, Jane Andres, and many others. Many thanks for their valuable contributions to this project.

⁷ The International Organization for Migration (IOM) facilitates migration for temporary agricultural workers from Guatemala to Canada. In 2007, the IOM facilitated the employment of 2,255 Guatemalan temporary agricultural workers in Canada. Migrants must pay a deposit to participate in the program. For more details see *Segunda Evaluación Programa Trabajadores(as) Agrícolas Temporales a Canadá*, IOM 2008.

HOUSING REGULATIONS AND LIVING CONDITIONS OF MEXICAN MIGRANT WORKERS IN THE OKANAGAN VALLEY, B.C.

ABSTRACT

This article discusses the question of housing for Mexican migrant workers in the Okanagan Valley, British Columbia. It argues that living and working conditions for these workers are framed by a lack of citizenship that in practice denies them rights afforded to other workers in Canada.

This one-year qualitative research is based on interviews with officials from government, farmer organizations, farmers, community organizations and Mexican migrant farm workers in British Columbia. Thirty interviews were conducted between June and November 2008. Sharma (2001, 2006) points to the fact that the basic outcomes and constraints of temporary immigration programs, such as the Seasonal Agricultural Worker Program (SAWP), flow from notions of nation and borders that affect the political “rights” of people, and their consciousness and conceptions of who “belongs” and who does not. Through these mechanisms, citizenship rights are granted to some and denied to others. In this article we address the question of housing for Mexican workers in the Okanagan. We argue that their living and working conditions are marked simply by a lack of citizenship that in practice denies them rights afforded to other workers. We demonstrate that under SAWP, workers are *de facto* denied the right to choose their own accommodations; the right to leave their employers’ premises after work; and the right to move freely within those premises. The contradiction of this program is that while the survival of agriculture in the Okanagan depends on imported labourers, the desperate poverty of Mexican agricultural workers, which has forced millions to migrate north in search of work, weakens their bargaining power, forcing them to accept conditions imposed by government to government agreements that make them, in practice, indentured workers, rather than wage labourers.

The SAWP in British Columbia – and in the Okanagan – has been in existence for only six years. The number of Mexican farm workers in the region has increased from a handful in 2004, to about 400 in 2005, to around 3,000 in 2009 (Brett 2005, Schmidt 2009). The program is expected to continue to grow exponentially to “save B.C. agriculture from collapsing.” Agriculture is, today as in the past, a central activity in the Okanagan. It is also an activity that has always been characterized by its reliance on the work of ethnic minorities (Lanthier and Wong 2002). This record provides the backbone to the current trend of temporary work in the region.

In the latter part of the 20th century the Okanagan’s built landscape began to transform. The housing stock of small urban houses, trailer and mobile home parks, summer cabins and fairly cheap motels has quickly changed. Land and housing have become more expensive while affordable housing has virtually disappeared. Real estate prices have escalated in the Okanagan in the past years to such an extent that housing costs became a major part of many families’ expenses. While the median house price in 1999 was \$168,900, it had increased to \$215,000 in 2003, reaching \$520,000 in 2007 (www.castanet.net). An affordability survey released on January 29, 2008 revealed that Kelowna ranked among the most expensive markets in North America (CBC News 2008). The increase in housing prices has only aggravated a historical trend that makes workers avoid, when possible, the backbreaking, dirty, poorly paid, and dangerous work of the agricultural sector.

For the past 30 years, French Canadian youth have provided essential seasonal agricultural labour force in the valley. Several methods have been used to recruit them as fruit pickers. They move through the summer months within the Oliver-Vernon corridor following the pick seasons of the different commodities harvested in the area. Historically, they have been subject to poor housing conditions,

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at times living in substandard fruit-picker cabins, or camped in farms with little or no facilities. Although some efforts were made in the 1980s to build better accommodations for fruit pickers, camping increasingly became an accepted practice. The discourse of camping as unsanitary has gradually changed to one of fun and enjoyment.

Land and housing speculation have made picker cabins a hot item. Some of the existing picker cabins have been sold for large sums of money or are rented year-round. From this experience, municipalities in the region have passed legislation prohibiting building permanent dwellings on farm properties to house temporary workers. Taking advantage of the image of the Okanagan as a place to “play” and work at the same time – an idea marketed by local municipalities and economic commissions – farmers and farmer organizations try to attract Canadian temporary workers by offering, for a small fee, access to camping facilities, showers and even, sometimes, lake-side locations.¹

However, the supply of Canadian transient workers willing to camp and live rough is becoming increasingly insufficient. The transformation of agriculture in the Okanagan requires more workers for operations like vineyards, new apple crops, and cherries. As well, French Canadians are often students who leave before the apple season. But in large part, French Canadians have never been “just-in-time” labour and they are far less disciplined than the new crop of labourers available through the SAWP. The SAWP labourers, by contract, are available for work every day during the season, often for 10 to 12 hour shifts. Mexicans “always put up a full day, they start early in the morning and work until early afternoon, and they stay for the whole season. They’ll walk out to the field rather than wait for stragglers, and they don’t complain. That’s why we hire them,” pointed out the owner of a farm in Oliver, B.C. (Lalonde 2006).

Another experienced entrepreneur stated that Mexicans “are good workers. I’ve seen them pick two to three times (more than) the average beginning picker. A lot of Canadian workers are lazy, many only want to work for a day then go out partying, and then you won’t see them the next day. Mexican workers will pick every day and work hard” (*Ibid.*). Among the farmers we interviewed, there was almost unanimous agreement that Mexicans have a work ethic and family loyalty that Canadian farm workers lack. At least in agriculture, gone are the days of the stereotype of *Latinos* as lazy and in need of a *siesta* and of the North American protestant ethics of work and austerity.

The SAWP is very appealing to employers. According to Mike Wallis, from the Western Agriculture Labour Initiative (WALI),² many Mexican workers are available who can do the job and who offer a more stable and predictable labour force than do Canadians (Steeves 2008a). Mexican migrant farm workers are not necessarily cheaper. While in 2008 newspaper ads offered an hourly wage of \$9.50 for Canadian farm workers, the SAWP required minimum salaries of \$8.90

an hour, plus “adequate housing” for a maximum fee of \$550 and the return ticket to Mexico City. The average cost per hour for a SAWP worker, once the housing and transportation costs are factored in, fluctuates between \$12 and \$15.³ Moreover, the mandate to provide adequate housing may demand a significant investment for a farm operator, at least at the initial stage (Squire 2008). For many employers, the cost of housing increases the cost of wage labour, although some unscrupulous farmers take advantage of the lack of citizenship of their workers through this provision, as we will discuss later. A basic rule in a capitalist enterprise is to increase worker productivity as much as possible to lower the impact of fixed costs in the total cost of the commodity. Then, the more hours the Mexican workers labour for Okanagan farmers, the lower their hourly cost.

After all, migrant workers from the south have little bargaining power in a global labour market, where the north has the upper hand. The SAWP is an economic agreement at the global level signed between Canada and the sending country, with no participation of workers or workers’ organizations. This agreement takes advantage of its most vulnerable participants. For example, the program mandates a back-up of workers staged in Mexico, ready to leave, in case more workers are requested by Canada on short notice (Brem 2006). Work is not guaranteed for the workers in this situation. The program also stipulates that the migrant workers must be married; that they are to be kept ignorant of their actual placement until they land in Canada and are met by the representative of the Mexican consulate, who then informs them of their destination; that they have no say as to where they will dwell in Canada (for as long as eight months). Furthermore, workers pay rent, an amount set by the Canadian government, but have no say in their housing conditions; they have no choice as for whom they will work

and with whom they will share their accommodations. Ironically, at the onset of the program in British Columbia, in 2004, the Mexican Consul, Hector Romero, stated that the SAWP is “mutually beneficial for both countries and Mexico is pleased with the rights and protection of its workers.” (HRSDC 2004). This echoed the prevalent discourse that the program is a “win-win situation” for both the farmers and the migrants.

Housing is a central aspect of the SAWP. Joe Sardinha, the current president of the BC Fruit Growers Association, points out that “under government regulations for the Seasonal Agricultural Worker Program, proper housing must be provided for the Mexicans. That means four walls, roof, sanitary facilities, cooking and sleeping area, so if there’s one limiting factor preventing some growers from accessing workers through this program, it’s the housing” (Brett 2005).

Housing conditions are regulated by set guidelines, not legislation. BC is the only region where accommodations are approved by municipalities (if applicable) or independent inspectors. In all other regions, the Ministry of health, or

Among the farmers we interviewed, there was almost unanimous agreement that Mexicans have a work ethic and family loyalty that Canadian farm workers lack.

other appropriate agency, approves them. The BCSAWP guidelines point out that employers must provide “suitable housing on the farm; or arrange for suitable housing off the premises,” and that “the worker may be charged a rate of 7% of his/her gross daily pay to a maximum of \$550 during the worker’s entire stay in Canada.” To reiterate, “[i]f the employer is unable to provide suitable accommodation on the farm, the employer must provide suitable accommodation elsewhere, at the same cost to the worker.” Informed by Foucault’s theory on discipline and control, we would suggest that it is not by chance that under the bi-lateral agreement the preference is to locate the dwellings in the farmers’ property, under surveillance, close to the employers’ gaze, during and after working hours, seven days a week. In fact, given the conditions under which this program operates, workers are housed in a system that also responds to Goffman’s idea of total institution. Workers are often relatively immobile on the premises, as many lack independent transportation means, disposable income for outings, lack a community and a network of family and friends to visit and to socialize with, and most importantly, lack the language to function independently. Because workers live on the property of their employers, they are subject to rules of behaviour at work and off-work; are subject to prohibitions of “vices” such as smoking, drinking, partying, loud music; and through the rules of the system, they are always on hand, ready to work at any time.

The housing guidelines are sufficiently vague to leave much of the decisions to the good will of the farmer (or to his or her bad will). It is true that the guidelines provide some “objective” measurements or standards, such as airspace per worker, or that bunks should be at least 12 inches above the floor. Still, a number of aspects are left to the judgment of the farmer. In fairness, the farmers start from guidelines that outline few directions and minimal compulsory requirements to house workers. The norm is that workers may be housed in mobile homes or industrial camp trailers; that bunkhouses are as suitable as normal family houses. Then, there are the silences and omissions in the guidelines. For people who work hard ten to twelve hours a day, six or seven days a week, or who must remain idle for long periods because of bad weather or lack of work and with not much else to do, the guidelines don’t seem to consider necessary to demand a suitable space for people to just relax; for family men (most workers brought under the program are male, although it is open to both men and women) who are far from their families for months at a time, access to phones or email facilities is not considered essential; for workers who live in relatively isolated areas, free access to transportation is not deemed indispensable. In fact, although they might offer higher standards than the tent that has been normalized as suitable for Canadian transient fruit pickers in

The program also stipulates that the migrant workers must be married; that they are to be kept ignorant of their actual placement until they land in Canada and are met by the representative of the Mexican consulate, who then informs them of their destination.

the region, the guidelines respond to concepts that do not recognize the right of agricultural workers to a minimum of privacy and comfort.

The SAWP guidelines prescribe that buildings to be used as housing for migrant workers be located on well-drained land, waterproof, 100 feet from barns or poultry cages and detached from buildings that store inflammable material and provided with adequate lighting and ventilation; that floors be tight fitting, smooth-surfaced, readily cleanable; that walls be 7 to 8 feet above floor level, smooth painted or of treated surface material. Sleeping facilities for these workers can be bunkhouses of family houses. Bunks *should* be “separate and sleep one person,” 12 inches above the floor, and at least 18 inches apart from the next bunk, when not lying lengthwise along the walls. The airspace per person in sleeping areas *should* be 300 cubic feet. A clean mattress and pillow, a supply of clean blankets, sheets and pillowcases, and one storage unit complete the requirements. Family housing specifies maximum occupancy rate of one person per 80 square feet of usable floor area and the same in bunkhouses. Basic furnishing, such as tables, chairs and beds are specified for family houses. It is also specified that the sleeping area should be partitioned from other living areas. One toilet and shower for ten people, one sink for seven and a constant supply of hot and cold potable water is prescribed. To these very elementary directions, safety, garbage and basic kitchen guidelines are also added (BCSAWP 2005).

Service Canada requires employers to include with their yearly applications for a Labour Market Opinion, a seasonal housing approval form showing that the premises have been inspected and approved according to guidelines specifications. The few Farmers who use commercial accommodation providers include a letter from the hotel or motel indicating the number of guests to be housed and the duration of the stay. The municipalities of Abbotsford and Pitt Meadows conduct their own inspections. In the rest of the province the inspections are conducted not by a government agent but by a certified private company. There is only one company in charge of the huge Okanagan area, where farms spread in an area almost 200 kilometers long, and where most of the workers are lodged in farm facilities. Inspections cost the farmer \$85, which is paid directly to the inspector, for a service that has been mandated to protect workers’ rights (BCSAWP 2005).

There is little control over this process. Only one person, a retired city building inspector, who has held this post since inspections began in 2006, conducts inspections in the Okanagan. According to the rules, he visits the premises once, before the arrival of the workers. This is an important visit for the employer, because without approval, the application to bring migrant workers cannot go forward. The

Okanagan is a large area to be checked by one inspector working part-time. Sometimes, during the most pressing period, five or six farms are inspected in one trip. From our interviews we learned that inspections are often hurried; about half an hour at the most is spent in buildings going through their first inspection, less in those that have been inspected for an earlier season.

Although attention is often paid to gross measurements to determine whether the building complies with the minimum surface and air volume specifications, inspections sometimes fail to pay attention to other aspects. For example, we learned that it is not the concern of the inspector to check the size of the hot water tank in relation to the number of people housed in a dwelling. One of the farmers interviewed suggested that the inspection of his premises had been rushed, very rushed; that the inspector had failed to notice that the farmer, who was in a hurry to get the inspection done to apply to BCSAWP, had not hooked the house to the water main. And when one of the members of our team observed one inspection somewhere in the province, it was clear that the inspection was perfunctory if not negligent. In that occasion the dwellings inspected were little more than three tool sheds with wet and moldy cement floors that had not been cleaned for a long time. The inspector did not check whether the old stove and fridge were in working condition. He overlooked the fact that the buildings were not furnished, and that sheets, pots and pans were not on site for the inspection, although he let the farmer know that he would come back to check that those essentials were there before the workers arrived. He also overlooked dirty stained, mattresses, loose hanging wires, filthy toilets and inadequate showers in a furnace room. He even omitted entering one of the rooms since the farmer failed to open it. Although he told the farmer that he needed to clean the place and get rid of the junk and broken glass and fix the loose wires found in the room, he still approved the premises with the admonition that he was coming back. Did he go back? There is nothing mandatory about further inspections or random visits by inspectors, much less government inspections of the inspectors. In our view, housing is primarily left to the employers' sense of justice and their perceptions of Mexican workers' needs, views that are often tinged by constructions of race and underdevelopment. Actually, the ambiguity of the discourse surrounding this program allows for a wide range of practices. In what follows we will offer a few descriptions from our own observations that illustrate our argument that the way housing is conceived under the BCSAWP plays a central role in curtailing the freedom and citizenship rights of migrant workers.

Those living under the most comfortable conditions were workers working for vineyards connected to wineries. In one case, a few workers were accommodated in a house formerly used by the owner and his guests. The house was equipped with a living room, a Jacuzzi and had spectacular lake views. Each worker had his own bedroom. These workers were not charged for accommodation. It was one of the two employers in our sample who did not charge rent. And yet, when we interviewed the workers, they could not shake the sense of total institution which they experienced, as the door to the property was kept locked to outside vehicles and visitors were only allowed in by the foreman, who

had his own housing arrangement on the property. These premises are located far away from town; there is no public transportation available; walking or biking is dangerous and difficult; the only option for the workers to go on outings was through access to the company's vehicle. Indeed, the contractual obligation of the employer to offer transportation once a week for workers to go shopping was fulfilled, but the sense of isolation remained. These workers had access to a church organization that offered some support and sometimes helped with transportation.

We visited the workers of a second vineyard, who dwelled in a house located on a public rural road. The environment was less luxurious than the one described above. The house had a beautiful view, a deck, a large barbeque, a well-appointed kitchen, a washer and dryer, a telephone, a functional living room that included two sofas, a large television set and games. The house had laminate floors, clean painted walls, two washrooms, hot water. Each worker was charged \$550 for the season in rent. But here, like in several other residential arrangements, some of the same standard applied: shared bedrooms, fairly thin mattresses, and little room furniture. However, when questioned about their perceptions, these workers unanimously agreed that they were very satisfied with their accommodation, that housing was unproblematic. Perhaps the most important aspect of this particular experience was that this residence was far from the gaze of the employer, and so the workers' sense of surveillance was limited. Yet, from our standpoint, they still remained un-free men living with no privacy in an isolated setting.

A large group of workers who laboured for a cherry farmer lived a different experience. Forty workers had been hired for the season. The owner provided them with two bunkhouses that slept 20 each. A barrack-like room of concrete floors was furnished with a continuous single line of bunk beds stretching lengthwise along three walls, simulating a Lego construction. No sense of privacy existed here. Bunk beds were complete with thin foam mattresses. There were two armchairs, one television set, a line of small lockers in the middle of the room, and a few large plastic boxes. Located outside the dorm, there were four washrooms that included sinks, toilets and showers. The workers ate institutionally like, in a separate mess hall, also reminiscent of prisons or army barracks. This room was furnished with picnic tables similar to those found in city parks. This particular employer provided a cook and all the meals. Within the stipulations of the agreement, he charged the maximum allowable for food, \$6.50 per worker per day. He collected about \$260 a day for meals; yet the workers complained of hunger and food of poor quality. Workers also paid rent, amounting to 7% of their salary. We calculated that this farmer may get around \$20,000 per season in rent for his bunkhouse if workers stay long enough. This farmer complies with the minimum requirements of the BCSAWP, but he nevertheless offers physical facilities and living arrangements that intimidate his workers, while recovering a large portion of his workers' income.

In between these two extremes there are operations where employers try their best to balance low costs and relatively acceptable housing conditions. In two of the cases we studied, workers were not charged for accommodation.

Workers in this group, with some variations, had more or less easy access to phones and were able to resolve their daily necessities with relative ease. They had relatively easy access to transportation. Some were driven upon request to resolve personal problems whenever needed, while others had access to public transportation or were given access to a vehicle and gas, and in other cases, came and went from the farm by bicycle. Just by chance, some workers are assigned to employers who treat them with respect and who try to make their life in Canada as bearable as possible.

Regardless of the quality of housing arrangements, the SAWP is embedded in a system that curtails the freedom and citizenship rights of migrant workers. The houses where SAWP participants dwell, sometimes for eight months a year, year after year, are not expected to have a space with decent couches where people can relax after a long day of work. It is the norm that grown-up men share a bedroom for months, sometimes two or three to a bedroom, sometimes ten or twenty to a bedroom. At least each person is given the right to a bed of his or her own. Bunks, unfinished interiors, cement floor, overcrowding are the norm rather than the exception. And more problematic still is the fact that workers are housed within the premises of the employers, on private property and thus, constantly under their gaze. It is irrelevant if workers' movements are actually controlled or not in the premises: the possibility is always there.

In essence, in the Okanagan, housing for migrant workers reinforces immobility and surveillance. Housing arrangements leave multiple possibilities for employers. They may improve the lot of the workers or make their lives miserable, all within the legal parameters of a program where housing represents a disciplinarian and total institution. It is notable that some companies and individual farmers do their best to offer what they consider to be humane conditions to their workers. True, many of these conditions are marked by discourses of underdevelopment, race and class, but the employers act according to their moral conscience to be fair employers within the limits of their business needs. Others take advantage as much as they can of vulnerable people, also within the limits set by the program. The way housing inspections have been framed by the program, including the resources assigned for this service, the character of the inspection process, and the frequency at which they are performed, results in an ad hoc system with little regulation for employers and significant constraints for workers. Both the Canadian and Mexican governments sanction the SAWP in the Okanagan. After all, it is through programs conceived in this form that the global labour markets of the 21st century resemble the indentured labour markets of the past.

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Notes

- For example, a relatively large farm operation that employs French Canadian workers offers \$9 an hour for workers in the packing house and about \$15 an hour for fast pickers who are hired for piece work. They also offer good accommodations for campers: "Depending on the crop, we employ 25 to 30 pickers and packing house workers who live rent-free in our campsite at one of the farms. You will need a tent, sleeping bag, cooking utensils, working clothes (warm and cold), boots and a bathing suit (there is a pool). The camp has showers, flush toilets, stoves, fridges, microwaves, sinks, safe drinking water, couches and sometimes TV and movies." (Norton Okanagan's Harvest 2009) Of course, this is a rosy picture. A different image is offered by a description of Oliver's housing facilities by a witness who blogs, "Most farmers will allow workers to tent in their orchard while working for them. Some farmers have running water, some do not. Very few farmers provide anything 'extra' like cabins, cookhouses or showers. Some do not even have outhouses on their property for workers. If you are planning to come and pick fruit, you will be roughing it. Bring a good tent." (Oliver, B.C. Blog, 2008)
- An industry-based, employer representative organization, funded by several B.C. Commodity Groups that facilitates the importation of temporary farm workers.
- Calculations provided by three operators interviewed.

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TEMPORARY WORKERS IN CANADA: A NATIONAL PERSPECTIVE*

ABSTRACT

Canada has a long history of racialized, gendered, and classed immigration that has been put in place to meet labour market needs. Migrant temporary workers have been played an integral role in this development. In this article, we address the growing importance of Canada's Temporary Foreign Workers Program, contextualizing it within global political economy in terms of flexibility, racialization and genderization. We show the growing importance of temporary migrants in various labour markets and briefly explain that in the 21st century different processes for bringing in temporary migrants to Canada are being used as vehicles to privatize immigration and to further racialize and genderize it.

Temporary workers come to Canada under the auspices of the *Immigration and Refugee Protection Act*, and specifically, the Temporary Foreign Worker Program (TFWP). They are unfree in the sense that they are unable to circulate within the labour market due to legal constraints. This article contextualizes Canada's TFWP within the global political economy in terms of flexible labour, racialization and genderization. Temporary workers are flexible; they provide "just-in-time" labour to meet what are perceived to be shortages of workers in the labour market. While this labour is flexible from the point of view of the employer, it is "precarious" from the vantage point of the worker. Employers use the TFWP to have direct power over who immigrates to Canada, slowly eroding the goals of meritocratic fairness that have supported Canadian purported efforts to make (im)migration an impartial process. Although global political economy is a good starting point for framing temporary labour in Canada, it is not sufficient.

Historically, many forms of stratification have organized labour forces and markets via processes such as slavery, indentured labour, unpaid labour, contract labour, and seasonal labour. Segmented labour market theorists, in their 1980s critique of neo-classical human capital theory, argued that social factors such as "race," ethnicity, and gender have an important impact on opportunity and allocation in the labour market. As Portes (1981) noted, secondary labour market immigrant workers have a tenuous juridical status; they are hired not primarily on the basis of their ability but rather on the basis of their ethnicity; they are destined to work in jobs with low remuneration, poor working conditions, and restricted mobility.

It can be argued that global capitalism does not purposely create barriers based on "race" and gender because consumers and capitalists come from all "races" and both genders. Nevertheless, the past occurrence of colonialism and slavery under patriarchal structures means that race and gender remain salient in terms of work and labour. We will briefly examine the situations of flexibility, racialization and genderization as they relate to the TFWP and to selected labour market sectors, including agricultural workers, live-in caregivers and skilled high-tech workers.

Canada's Temporary Foreign Worker Program

Since Confederation, Canada has always had some type of temporary worker process. The ideal of creating a British settler community was Canada's original nation-building goal, but the reality was that the Canadian capitalist class preferred temporary workers for agricultural and industrial work, infrastructure and railway construction, and domestic work; Asian and Southern and Eastern European males filled many of these positions. In railway construction and mining, for example, there were racialized labour segments with distinct groups of workers: "Whites" in higher paid and "safe" occupations, and "foreigners" who were in lower-paid and dangerous jobs (Vosko 2000) – the latter group often being hired as temporary workers. There is also a long history in Canada of foreign domestic workers serving middle- and upper-class families dating back to the late 1800s and early 1900s.

World War II reversed the economic crisis that had lasted ten years following the worldwide capitalist crash of 1929, and women and prisoners of war filled the jobs created by the war economy. After the war, Canada experienced a shortage of labour to maintain the Fordist industrialization that

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Table 1
Source area of foreign temporary workers^a for selected years, 1982, 1995, and 2005

Year	1982		1995		2005	
	Number	%	Number	%	Number	%
Asia and Pacific	20,013	16.1	48,775	28.7	85,504	34.8
Africa and Middle East	2,468	2.0	19,029	11.2	23,543	9.6
Americas	15,663	12.6	24,871	14.7	45,337	18.5
Europe	25,917	20.9	29,991	17.7	46,434	18.9
US.	59,805	48.2	46,295	27.3	40,253	16.4
Unknown/Not stated	248	0.2	780	0.5	4,355	1.8
Total	124,114	100.0	169,741	100.1	245,426	100.0

^a Data based on temporary work permits issued.

Note: In terms of racialization, caution needs to be exercised when assuming that all temporary workers from Europe and the U.S. are White.

Source: Citizenship and Immigration Canada 2006.

had burst forth. These urban and industrial jobs were particularly attractive to workers and thus dwarfed agricultural employment. The solution to the scarcity of agricultural labour was international migrants. About 11% of these migrants, many of whom were displaced persons, were destined to the agricultural sector (Satzewich 1991).

In the postwar period the reversal of the historical trend of immigrants leaving Europe for other parts of the world had already begun. Instead of Europeans moving to the rest of the world, people from the Caribbean began moving to the United Kingdom, Turks to Germany, Northern Africans to France, Spaniards and Portuguese to Switzerland. Many would encounter difficulties becoming full citizens in industrialized Europe. In Canada, public discourse and legislation adjusted to this shift, at least partially. The discourse of Canada as a White settler society changed, and a discourse of multiculturalism began to emerge and became hegemonic. Immigration

policy became meritocratic with the adoption of a “points system” in the late 1960s.

From the immediate postwar period up to the early 1970s, the Canadian state had established an accommodating system for regulating temporary workers as the Canadian economy was undergoing expansion. They were admitted as “visitors.” For a few select industries, such as mining, logging, and lumbering, Canada set up a contract labour program in 1947, and this program expanded to include other specialized industries such as sugar beet production employing seasonal agricultural workers in Western Canada (Knowles 2000). In the early 1970s, although the Canadian economy was shaken by another crisis, temporary workers continued to be needed, but their entry and movement were placed under stricter legal control and management. The Non-Immigrant Employment Authorization Program was instituted by the Canadian government in 1973, which in the 1990s became known as the Temporary Foreign Worker Program (TFWP).

Table 2
Labour migration to Canada and Canadian unemployment (1995 to 2005)

Year	Labour migration to Canada		Temporary to immigrant ratio	Canadian unemployment	
	Immigrant workers ^a	Temporary workers ^b		Number of unemployed (x 1,000)	Unemployment rate
1995	98,823	169,741	1.72	1,402.1	9.6
1996	107,349	168,768	1.57	1,442.9	9.7
1997	102,172	163,911	1.60	1,382.0	9.2
1998	83,748	173,023	2.07	1,277.6	8.4
1999	93,817	186,492	1.99	1,185.2	7.6
2000	113,744	200,465	1.76	1,083.5	6.8
2001	123,853	209,675	1.69	1,164.1	7.2
2002	112,239	211,590	1.89	1,272.2	7.7
2003	111,672	213,160	1.91	1,288.9	7.6
2004	117,515	238,287	2.02	1,233.7	7.2
2005	128,727	245,426	1.91	1,172.8	6.8
% change 1995-2005	+ 30%	+ 45%	+ 11%	- 16%	- 29%

^a Based on permanent residents data, and excluding live-in caregivers and business immigrants.

^b Based on temporary work permits issued data.

Sources: Citizenship and Immigration 2006. Labour Force Survey 2006: *Table 282-0002: Annual estimates (LFS), by sex and detailed age group (age group: 15 years and over)*, Geography: Canada.

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Table 3
Flow of all workers to Canada by migration status and source area, 1995 and 2005

Source area	Labour migration to Canada					
	Immigrant workers ^a			Temporary workers ^b		
	1995	% Change 2005	1995 – 2005	1995	2005	% Change 1995 – 2005
Asia and Pacific	47,415 (48%)	61,008 (47%)	+ 29%	48,775 (29%)	85,504 (35%)	+ 75%
Africa and Middle East	14,916 (15%)	23,928 (19%)	+ 60%	19,029 (11%)	23,543 (10%)	+ 24%
Americas	9,841 (10%)	14,959 (12%)	+ 52%	24,871 (15%)	45,337 (18%)	+ 82%
Europe	23,271 (24%)	24,217 (19%)	+ 4%	29,991 (18%)	46,434 (19%)	+ 55%
US	2,898 (03%)	4,513 (04%)	+ 56%	46,295 (27%)	40,253 (16%)	- 13%
Unknown/Not stated	482 (00%)	102 (00%)	-	780 (00%)	4,355 (02%)	-
Total	98,823 (100%)	128,727 (101%)	+ 30%	169,741 (100%)	245,426 (100%)	+ 45%

^a Based on permanent residents data.

^b Based on temporary work permits issued data.

Source: Citizenship and Immigration 2006.

Over the past 25 years there has been a major shift in the source countries of temporary workers. In 1982, the U.S. was the country of origin for 48% of all temporary work permits issued; by 2005 this figure had dropped to 16.4%. Moreover, the absolute numbers for the U.S. have also been dropping (see Table 1). During this same time period, the proportion of workers originating from Europe has remained the same while the proportions from Asia and Pacific, Africa and the Middle East, and the Americas (excluding the U.S.) have increased substantially. Table 1 demonstrates that the shift in temporary workers has come from the developed northern nations of the world to the developing southern nations.

The flexibility of temporary workers is illustrated in Table 2. From 1995 to 2005 the number of temporary workers increased by 45% – indeed more rapidly than the number of immigrant workers, which increased by 30%. By 2005, the number of temporary migrant worker entries was almost double that of permanent immigrant workers who entered Canada.

Moreover, as the unemployment rate in Canada dropped during this period, as did the absolute number of unemployed persons, the number of temporary migrant workers correspondingly increased. These data indicate that temporary workers fulfill a “flexible” function in meeting labour force needs more so than do immigrant workers, whose numbers are smaller but also whose presence in Canada is not contingent on being active in the labour force. When gender is analyzed, the data (not provided here) indicate that there has been a feminization of temporary workers. Temporary male workers increased by only 29% from 1995 to 2005, while the number of temporary female workers increased by 76% (CIC 2006).

A further comparison by source area reveals that for Asia and Pacific, the Americas, and Europe, the percentage increase of temporary migrant workers far outstrips that of permanent immigrant workers for the period from 1995 to 2005 (see Table 3). In the case of Asia and Pacific, immigrant workers increased 29%, while temporary migrants increased 75%; in the Americas, the increases were 52% and 82% respectively; and in Europe it was 4% and 55%. The figures for the U.S. show a reverse trend, from 56% to 13%, although

the absolute number of immigrant workers from the U.S. is very small. In contrast, the absolute number of temporary permits from the U.S. is very large due to the large number of border crossings by management consultants, musicians, and artists, many of whom cross the border to Canada for very brief periods. Thus, the contiguous border and extensive economic integration of the Canada-U.S. economy account for the large number of temporary permits issued to workers from the U.S.

When the source area data are broken down by gender, they show that the feminization of temporary workers mentioned earlier comes primarily from Asia and Pacific, the Americas, and Europe. Overall, the percentage increase from 1995 to 2005 in the number of female temporary workers from Asia and Pacific was 110%; for the Americas, was 84%; and for Europe, 71% (CIC 2006).

It should be noted that a significant percentage of the workers from the U.S., Europe, and Africa and the Middle East¹ are skilled and highly skilled. For example, 64% of workers coming from the U.S. have managerial or professional skill levels compared to 29% from Asia and Pacific and 10% from the Americas. Further analysis reveals that most temporary workers at the managerial, professional, and high-skilled levels are from Europe and the U.S. while most of the workers at the lower-skilled levels come from Asia and Pacific, and the Americas (CIC 2006).

To some extent, the feminization and racialization of Canada’s TFWP can be attributed to Canada’s solicitation not only of low-skilled labour but also of some high-skilled, flexible labour throughout the world. Six programs are now briefly examined.

Agricultural workers

Intensive recruitment of agricultural workers started in 1966 when Caribbean workers were hired to work seasonally in Ontario to grow tobacco, vegetables, and fruit by virtue of an agreement between the Jamaican and Canadian governments under Canada’s Seasonal Agricultural Workers Program (SAWP) (Satzewich 1991). The program was well subscribed from the beginning. As Basok (2002) and Satzewich (1991) have pointed out, agriculture in Ontario in the last decades could not have been profitable without

Table 4
Caribbean and Mexican seasonal agricultural work permits issued by gender^a (1995-2005)

Year	Seasonal agricultural work permits issued						Overall total
	Caribbean			Mexico			
	Male	Female	Total	Male	Female	Total	
1995	6,154	29	6,183	4,845	57	4,902	11,085
1996	5,993	28	6,021	5,190	57	5,247	11,268
1997	6,476	24	6,500	5,634	66	5,700	12,200
1998	6,703	24	6,727	6,352	142	6,494	13,221
1999	6,881	44	6,925	7,359	160	7,519	14,444
2000	6,919	33	6,952	9,024	232	9,256	16,208
2001	7,434	78	7,512	10,154	362	10,516	18,028
2002	7,351	96	7,447	10,487	346	10,833	18,280
2003	7,580	80	7,660	10,284	302	10,586	18,246
2004	7,802	63	7,865	10,553	378	10,931	18,796
2005	8,061	78	8,139	11,653	356	12,009	20,148
% increase 1995-2005	31%	169%	32%	141%	524%	145%	82%

Source: Citizenship and Immigration Canada, 2006.

these workers who assured agricultural owners a steady, hardworking, cheap, disciplined, and immobile labour force. In 1974 Mexican male workers began to migrate to Canada to work on farms under an agreement between the Mexican and Canadian government. Their numbers have climbed steadily and have surpassed the number of Caribbean workers (Cook 2004). Recent figures for 2005 indicate that there were 8,193 Caribbean workers and 12,009 Mexican workers, which represent 32% and 82% increases over a decade (see Table 4).

In Canada, the program is regulated by an established set of institutions. Human Resource Centres of Canada serves as the conduit between farmers' needs and workers' recruitment, administering the Caribbean/ Mexican SAWP on behalf of the Government of Canada. Since 1987, a strategic alliance has been forged between Human Resources and Social Development Canada (HRSDC) and industry representatives, and in 1997 HRSDC and horticulturalists formed the Ontario Horticultural Advisory Committee so that government and industry can work cooperatively, setting policy for this program.

Domestic workers

The contemporary movement of domestic labour is linked to an international political economy, where factors such as the structural adjustment programs of the World Bank and the International Monetary Fund in underdeveloped nations intersect with social reproduction² and the crisis in the Canadian domestic sphere as a result of women's greater participation in the labour force (Arat-Koc 1989, Stasiulis and Bakan 2003). For example, the conditions of poverty in the Philippines have produced a flexible group of women, many of whom are professional nurses, for work in private households in Canada and elsewhere in the world. In 1992 the Canadian government replaced the Foreign Domestic Movement Program (in effect from 1981) with the Live-in Caregiver Program (LCP); over the past decade, the number of workers who have entered Canada under the LCP

has increased substantially (see Table 5). In 1995 there were only 6,805 permits issued but by 2005 this number had grown to 22,870, a three-fold increase.

Table 5
Live-in caregiver work permits issued by gender (1995-2005)

Year	Female	Male	Total
1995	6,700	105	6,805
1996	7,455	148	7,603
1997	7,864	188	8,053
1998	8,150	211	8,361
1999	8,316	244	8,560
2000	8,583	270	8,853
2001	10,857	333	11,190
2002	12,977	431	13,408
2003	14,719	558	15,277
2004	18,908	865	19,773
2005	21,755	1,115	22,870
% increase 1995-2005	225%	964%	236%

Source: Citizenship and Immigration Canada, 2006.

Canada's unemployment rate has decreased over this same period of time, and this fact, combined with a growing labour force and an ageing population, has produced a high demand for domestic help, which has been met by temporary labour. In 1995, the top source country for work permits was the Philippines (68%) and the top five countries constituted 80% of all work permits issued. By 2005, the Philippines' portion rose to 86%, and the top five countries constituted 93% of all work permits (CIC 2006). This concentration of Filipina women, combined with the fact that there are no longer any European source countries in the top five, means that almost all domestic workers who come under the LCP are women of colour.

Thus the “visibleness” of nannies and caregivers in Canada has increased substantially over the past decade as part of the racialization of women’s household work (Bakan and Stasiulis 1995).

High-tech workers

In the period from 1996 to 2000 computer programmers and computer systems analysts were the top two intended occupations of all skilled immigrant workers to Canada (CIC 2003: 4). Most of these analysts came primarily from China, India, and Pakistan. Even after the decline in the high-tech sector in the early 2000s, high-tech computer programmers and technologists were still among the top five occupations of immigrant workers. Under a fast-track program called the Information Technology Professionals Software Program, approximately 1,200 workers, the majority of whom were from India, entered Canada in 2004 (CIC 2005). By 2004, computer programmers and technologists were ranked second, immediately following engineers (many of whom are also in high tech) and above nurses and welders (Volpe 2005).

Despite these significant numbers of immigrant high-tech workers, the Canadian government partnered with the Software Human Resource Council in 1997 to bring in temporary workers to fill high-tech position in the new economy. Further, a fast-track pilot project was initiated to facilitate spousal employment of high-tech workers under the TFWP; in 2000 HRSDC also became involved in this project. The program was expanded to include systems software designers, software product developers, MIS software designers, senior animation effects editors, and the like. Currently this program is called the Spouses and Common-Law Partners of Skilled Temporary Workers.

In 2005, 17,795 high-tech workers, comprising approximately 7.3% of all temporary workers, entered Canada under the TFWP (see Table 6). From 1995 to 2005, the largest percentage increase in high-tech temporary workers was from Asia and Pacific, the Americas, and Africa and Middle East, although the absolute numbers from the Americas and Africa and Middle East were very small. In contrast, the number of high-tech workers from Asia and Pacific in 2005 was approaching those from Europe and the U.S., where the percentage increases have been more

modest. The U.S. also recruits high-tech workers through their H1-B visa program primarily from India and China. The labour in this group is still very gendered, with approximately 85% of high-tech workers in 2005 being male, although the percentage increase in female workers (152%) has been much higher than for males (92%) during the past decade.

In the U.S., there is considerable controversy and debate about high-tech workers who enter under the H1-B visa program. Over the past decade or so, high-tech companies have lobbied Congress to increase the quota on high-tech workers under H1-B, arguing that the U.S. faces an extreme shortage of high-tech workers. Opponents and critics of this increase argued that there was no such shortage and that the motive for increasing the number of foreign high-tech workers was an industry strategy for depressing wages.

The question that arises in Canada is whether or not this same debate is also applicable albeit on a smaller scale. As indicated above, the proportion of high-tech workers from Asia and Pacific, Africa and Middle East, and the Americas has increased dramatically over the past decade compared to much smaller increases from Europe and the U.S. However, there has been no research on the issues of domestic supply and the need for temporary high-tech workers in Canada.

Canada pilot project for occupations requiring lower levels of formal training (NOC C and D)

In the past few years there was a notable increase in the demand for workers in several Canadian provinces. In the early 2000s, employers sought to hire foreign workers for occupations that under the National Occupation Classification require little formal training (NOC C and D). Except for SAWB, HRSDC rejected most of these applications. Later HRSDC approved guidelines to allow foreigners to come to Canada temporarily to fill occupations defined as requiring few skills. These guidelines specify that the employer must provide: payment of the foreign worker’s return airfare; assurance from the employer of the availability of adequate, affordable accommodation for the foreign worker (employers are not required to provide accommodation); provision for medical coverage until the provincial coverage takes effect; provision for workers’ safety insurance by the employer; and a

Table 6
Hi-tech work permits issued by source area (1995-2005)

Source area	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	% change 1995-2005
Asia and Pacific	1,793	2,138	2,695	3,821	3,752	4,511	4,520	4,127	3,625	3,981	4,880	172%
Africa and Middle East	289	312	382	553	660	845	861	699	495	618	731	153%
Americas	226	313	371	459	576	722	763	646	625	831	804	256%
Europe	2,350	2,592	3,728	4,946	6,019	7,084	6,841	5,680	4,377	4,678	5,054	115%
United States	4,577	4,933	6,773	7,794	7,378	8,096	7,456	7,013	6,242	5,996	5,783	26%
Unknown/ Not stated	16	15	142	371	451	462	492	427	383	401	543	-
Total	9,251	10,303	14,091	17,944	18,836	21,720	20,933	18,592	15,746	16,505	17,795	92%

Source: Citizenship and Immigration Canada, 2006.

twelve-month limit on confirmations and work permits, with an obligatory four-month stay of the foreign worker in their country of residence before returning to Canada for another temporary work opportunity. In 2007 it was decided that workers would be allowed to stay in Canada for up to two years, after which time they must return to their countries of origin even if hired for another period. These workers are not allowed to bring their families to Canada and are not free to change employers.

Thus, temporary Jamaican workers built bridges in Kelowna, Latin Americans participated in the construction of the Canada line in Vancouver, Filipinos work the kitchens of restaurants in Alberta, and people from different parts of the world work for Maple Leaf in Brandon Manitoba.

Formally, under the strict logic of the immigration legislation that vows to bring to Canada the “best and the brightest” (or the very skilled), the “unskilled” workers should not be allowed to stay in Canada. However, as the work of researchers at Brandon University points out, after six months, many temporary workers arriving in Manitoba who labour in unskilled or semi-skilled occupations apply to the Provincial Nominee Program (PNP). In this sense, temporary migrants become “transitional” foreign workers (Annis 2008, Bucklaschuk 2008). Unfree labour becomes both a vehicle for a probationary period for migrants and for a new style of immigration that is driven by employers rather than the state, allowing for unsupervised racial, geographical, or gender bias.

The Provincial Nominee Program (PNP)

Since 1991 Canadian provinces use the Provincial Nominee Program to achieve their immigration goals. For this, they have signed agreements with the federal government to administer their own immigration programs. Under the PNP it is often the employer who drives the immigration process. Employers nominate a worker, someone who could already be working for them or a prospective worker who may receive a temporary work permit while waiting for processing by provincial and federal authorities. Many of these workers are skilled workers seeking to immigrate faster than they would under the federal program, and to receive temporary work permits while their applications are processed. However, several provinces use the PNP to allow the immigration of semi-skilled employees like long-haul truckers or workers in the hospitality industry. Provinces like Saskatchewan have certain programs whereby only workers who have been labouring in the province for six months can apply to the Saskatchewan Immigrant Nominee Program (Saskatchewan Immigrant Nominee Program, 2009). Thus, workers are sought by companies that hire unfree temporary workers on probation and who, if they pass it successfully, are given permanent residence status. This form of privatization of immigration opens the door to new venues for breaching the meritocratic system that is purported to be class, colour and gender blind.

The Canadian Experience Class

In 2008, the federal government created a new immigration program, the Canadian Experience Class (CEC). The CEC disregards safeguards against racist, gendered or geographical biases as it seeks skilled workers who have been attracted to work temporarily in Canada

by private interests, employers who do not necessarily escape racialized or gendered views of the world. The CEC also focuses on university students, who are capable of paying hefty fees, to become permanent residents. The requirement of the CEC is that the applicant must be a skilled worker with two years of Canadian work experience or a foreign graduate from a Canadian university who has one year of Canadian work experience (CIC 2008).

As OCASI, the Ontario Coalition of Agencies Serving Immigrants, has pointed out (2008), the intention of the government is to blur the lines between temporary and permanent workers. The key idea is to make temporary immigration a transitional program for some skilled workers or for well-off foreign students who have graduated and worked in Canada as temporary workers. Since only a minority of temporary female labourers fit in the skilled categories, and a majority of the unskilled male labour force are chosen in already racialized programs, the risk of using the CEC to further racialize and gender immigration is evident.

Conclusion

Canada has a long history of racialized, gendered, and classed immigration in terms of meeting labour market needs. The import of temporary workers to Canada has also been integral to this development and entails a process of flexibility, racialization and genderization. In the 21st century, temporary immigration is being used as a vehicle to privatize immigration and to facilitate further racialization and genderization of permanent immigration to Canada.

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Notes

* This article is a revision and condensation of "Canada's Guest Workers: Racialized, Gendered, and Flexible" published in 2007 in *Race & Racism In 21st Century Canada*. Edited by S. Hier and B. Singh Bolaria, Peterborough: Broadview Press.

¹ Unfortunately, the data do not allow for a differentiation between Africa and the Middle East, and thus they are treated as one source area.

² Social reproduction is conceptualized here as "the social processes and labour that goes into the daily and generational maintenance of the working population" (Fudge and Vosko 2003: 185).

Canadian Diversity / Diversité canadienne Immigration Futures

The summer 2008 issue of *Canadian Diversity / Diversité canadienne* looks at the future of immigration with articles that focus on migration trends and patterns, and on new migration phenomena. This edition stems from a Metropolis inter-conference seminar on Immigration Futures hosted by the Monash Institute for the Study of Global Movements and held in Prato, Italy, in May 2006. Articles are drawn from this event, as well as from the 12th International Metropolis Conference in Melbourne, Australia. Contributions to this issue thus examine future immigration flows, the trend toward circular and return migration, the increased feminization of migration, the growth of Asia as a migration competitor, migration and the environment, and the ethics of migration. With an introduction by Demetrios Papademetriou of the Migration Policy Institute, this issue of *Canadian Diversity / Diversité canadienne* provides researchers, policy-makers and practitioners with a wide range of perspectives on what the future of immigration may look like.

Summer 2008

Guest Editor: Demetrios Papademetriou (Migration Policy Institute)

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IMMIGRATION POLICY SHIFTS: FROM NATION BUILDING TO TEMPORARY MIGRATION

ABSTRACT

This article discusses the implications of the recent increase in temporary migration for a country that relies on immigration for its development. The shift from nation building towards temporary migration in Canada has serious implications. It affects the workers, as their status makes them more vulnerable to exploitation and Canadian society as a whole, as the workers cannot integrate and contribute to their full potential.

In recent years, Canada has been increasingly relying on migrant workers admitted to Canada on temporary work permits. The focus on temporary migration is presented as a necessity to fill labour shortages. The recent shift to temporary migration marks a dramatic change in policy, yet there has been little public debate. Citizenship and Immigration Canada (CIC) launched the Canadian Experience Class in 2008 expressly to “attract more temporary foreign workers” (Canada Gazette 2008) and thus compete with countries like Australia for this workforce.

This article discusses the implications of increased temporary migration for a country relying on immigration for its development. The shift from nation building to temporary migration has serious implications for the workers themselves and for Canadian society as a whole. Resorting to temporary permits is creating a class of vulnerable and disposable workers: their rights are not fully protected, making them vulnerable to exploitation. Without a permanent status, they cannot integrate into Canadian society and contribute to their full potential.

According to CIC's publication *Facts and Figures 2008*, in the five years from 2004 to 2008, the number of people in Canada as temporary foreign workers has more than doubled. Over the same period, the number of permanent residents arriving in the skilled workers category went down. In 2008, the number of temporary foreign workers in Canada (251,235) exceeded the total number of permanent residents admitted in the same year (247,243) (CIC 2009).

In the fall of 2009, CIC has presented amendments to the Immigration and Refugee Protection Regulations regarding the Temporary Foreign Workers Program as a response to “the unprecedented growth in TFWs, coupled with rising concerns for the fair treatment of TFWs.” One of the main changes proposed by CIC is to introduce a maximum stay of four years for Temporary Foreign Workers, followed by a period of six years where they will not be able to work in Canada. This change is presented as a way to confirm the temporary nature of the Temporary Foreign Workers Program.

This solution is based on an assumption that the problem lies with the individual workers, who need to be prevented from continuing to work in Canada on temporary visas. The CCR considers that the problem lies rather in the labour market, which is relying on workers on temporary visas to fill long-term needs, and in the immigration program, which denies access to permanent residence to workers in the “lower” skill category.

Integration of people living in Canada

The successful integration of all newcomers to Canada is important to ensure that both communities and newcomers are able to benefit from one another. Integration is a two-way street: while newcomers have to adapt in order to settle into their new home, the host society also has a responsibility of adapting to its new members. For newcomers, successful integration includes access to meaningful employment, language proficiency, family reunification and the opportunity to participate in society to their full potential. The settlement and integration programs thus play an integral part in the immigration process.

The immigration status of individuals in Canada is an important aspect of the settlement process. Temporary workers are in most cases ineligible for settlement services and cannot bring family members with them. Having a temporary status means a delayed or very limited settlement process. On the other hand, a permanent status benefits both society and individuals, as it gives newcomers a place to call home and the opportunity to make long-term plans for themselves and

CANADIAN COUNCIL FOR REFUGEES (CCR)
Created in 1978, the Canadian Council for Refugees is a non-profit umbrella organization committed to the rights and protection of refugees in Canada and around the world and to the settlement of refugees and immigrants in Canada. The membership is made up of organizations involved in the settlement, sponsorship and protection of refugees and immigrants.

their family. A permanent status has positive implications on all aspects – economic, psychological, emotional, political and cultural – of individual lives and in turn make for a healthier society.

Canada's development is based on immigration. By 2011, it is expected that Canada's labour market growth will be totally dependent on immigration. One of the aims of Canada's immigration program is to attract skilled workers to become permanent residents. However, the potential for success in attaining this objective is undermined by the fact that, as statistics show, newcomers are experiencing higher levels of poverty than are Canadian-born workers with the same credentials.

In this context, the Canadian government should be focusing on the successful integration of newcomers who are granted permanent status, including by promoting fairness in the hiring processes and meaningful employment for refugees and immigrants (commensurate with qualifications and experience). Instead of offering employers access to a disposable workforce through the TFWP, the government should encourage employers to recognize the skills of the newcomers who are already living in Canada.

The new Canadian Experience Class

Citizenship and Immigration Canada introduced in 2008 the Canadian Experience Class (CEC), which offers the possibility of permanent residence to some workers with temporary status and who are already in Canada, based on "skilled" work experience. By introducing this new class, the Canadian government recognizes the need to offer workers with temporary permits the opportunity of obtaining permanent residence – this is therefore a positive initiative. However, the Canadian Experience Class is not the solution to Canada's labour shortages and immigration needs.

While the proposed CEC offers some migrant workers the possibility of becoming permanent residents, it excludes those who came to Canada as refugee claimants and temporary workers in occupations at NOC levels C and D, with level C referring to occupations that usually require secondary school or occupation-specific training, and level D referring to short work demonstration or on-the-job training.

The numerous exclusions from the CEC are problematic because they discriminate against those workers deemed to have "lower levels of skill", a value judgment that is questionable. These workers are in fact in high demand in Canada. We would like to present in this article some of the implications that these exclusions have on people who already contribute to Canadian society, but who cannot fully integrate because of their lack of permanent status.

Temporary lower-skilled workers

According to the CIC's 2008 statistics, 35.7% of temporary workers were of occupational levels 0, A or B, 38.5% were of occupational skill levels C and D, while the skill level was not stated for 25.9% of these temporary workers (CIC 2009). These numbers show that "lower-skilled" workers make up a significant proportion of the migrant workforce coming to Canada. In some cases, such as with the Seasonal Agricultural Workers Program (SAWP), which has existed for more than forty years, temporary workers are filling permanent labour shortages. If Canada needs these workers, why are they not given access to permanent residence?

Nationals from moratorium countries

Canada has imposed a moratorium on removals to five countries: Afghanistan, the Democratic Republic of Congo, Haiti, Iraq and Zimbabwe, in recognition of the situation of generalized insecurity in these countries. Three other countries, Burundi, Rwanda and Liberia, were also subject to moratoria until July 2009. While these nationals are not removed, they are not necessarily able to secure permanent residence status, even after many years in the country. Several thousand people in Canada are currently living in this limbo – some have been in this situation for more than 10 years.

The CEC will exclude people from moratorium countries because they did not enter Canada as temporary skilled workers. Many of them arrived as refugee claimants but their claim was rejected, in some cases unfairly. People from moratoria countries face serious hardships: they cannot reunite with family members, not even with their spouse and children, who were left behind in their country of origin. Workers from these countries face limited employment and educational opportunities

because of their temporary status. Nevertheless, many of them have been working for years in Canada and contributing as best they can, within the constraints of their status, to the Canadian economy and society.

People without status

The Canadian government has not yet responded to the situation of the many people living in Canada without status. The Canadian Council for Refugees (CCR) has developed a *Proposal for the Regularization of Individuals and Families Without Status*. Canada needs to consider the lives and contributions of people living in Canada, who are part of society and who are contributing in many ways.

By 2011, it is expected that Canada's labour market growth will be totally dependent on immigration. One of the aims of Canada's immigration program is to attract skilled workers to become permanent residents. However, the potential for success in attaining this objective is undermined.

Gender, race and class considerations

The CEC will have a differential impact on men and women. Men generally have better access to higher education than do women, especially in Global South countries. CIC statistics for 2008 show that 47.6% of men coming to work on temporary work permits are of the skill levels that qualify for CEC, while only 19.2% of women with temporary work permits would qualify (CIC 2009). In this way, the CEC thus discriminates against women.

The same can be said about people from under-privileged economic classes who do not have equal access to formal education and therefore are less likely to fit in CEC categories. Their competencies are needed in Canada, as the numbers provided above show very clearly. People considered “lower-skilled” are recruited by Canada but expected to work in conditions that are significantly inferior to those offered to workers with permanent status.

As an example, more than 20,000 agricultural workers come every year to work on temporary permits on Canadian farms. These “temporary” workers leave their families behind and in some cases come back year after year to work for the same employer, spending between four and eight months a year in Canada. Even though they spend years working in Canada, and in some cases the greatest part of their working lives, under the proposed CEC they cannot acquire permanent status because of the low-skilled nature of their work.

Another issue of concern is the Canadian government’s failure to address the urgent issue of long delays in family reunification; this is painfully affecting refugee and immigrant families in Canada and has an impact on society in general. Given the additional resources dedicated to processing temporary work permits, it is striking that additional resources have not been allocated to family reunification processing in order to reduce delays for children who are sometimes separated for years from one or both parents. The Canadian government needs to give higher priority to reuniting families, in recognition of the right of children to be with their parents, of the negative impact of family separation on the settlement process and of the important role played by family members in building a strong and just society.

Selection criteria and vulnerability to abuse

The selection criteria of the proposed Canadian Experience Class are based on the successful labour market integration of temporary workers. The two years of work required before being able to apply under the CEC makes workers more vulnerable to employer abuse, as they may

be reluctant to report abuse so as not to jeopardize their chances of obtaining permanent status. Experiences with the Live-in Caregiver Program speak to these concerns. There are many documented cases of abuse of workers who came to Canada under this program, 95% of whom are women. Because they need to be employed for two years before applying for permanent residence, they are often reluctant to denounce abuses for fear of losing their job and therefore compromising their chances of gaining permanent status.

Facing abuse and family separation: Some examples

- In June 2007, a worker in Quebec suffered a workplace injury requiring surgery. His employer refused to give him his health card and medical attention was delayed until he approached the UFCW Migrant Worker Support Centre. The centre’s staff was forced to call the police in order to have the employer hand over the worker’s health card (UFCW n.d.).
- Workers coming to Canada under the Live-in Caregiver Program cannot bring their children with them. Upon completion of two years of work within a three-year period, they can apply for permanent residence. Processing time and fees for permanent residence can further delay family reunification. In some cases, women are separated for five years and more from their children.

Protecting the rights of migrant workers in Canada

To ensure that the rights of migrant workers admitted on a temporary permit are fully respected, and until permanent status is granted to them, the Canadian government should take the following steps:

- Canada should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Eligibility to settlement services should be expanded to people with temporary work permits.
- CIC and Human Resources and Skills Development Canada (HRSDC) should ensure that temporary workers are fully informed of their rights under the program before and upon entering Canada. CIC and HRSDC should also actively ensure that temporary workers are given control of their own papers, including their passport and their health card.

In some cases, such as the Seasonal Agricultural Workers Program (SAWP) in existence for more than forty years, temporary workers are filling permanent labour shortages. If Canada needs these workers, why are they not given access to permanent residence?

- Migrant workers admitted on a temporary work permit do not have effective recourse to justice because they are often deported before they can seek legal recourse when they have suffered an injustice. Their status should be maintained during the period required to refer the matter to a tribunal and to await resolution. A transparent, impartial appeals process for migrant workers with workplace issues should be implemented.

Permanent status: The long-term solution

The Canadian Council for Refugees takes the position that Canada should increase opportunities for “lowerskilled” workers to become permanent residents.

The CCR recommends that the Canadian Experience Class include all workers admitted on temporary permits and individuals who came to Canada as refugee claimants.

In order to fully respect the human rights of all people in Canada, and to ensure the successful integration of newcomers, Canada needs to have a long-term immigration plan and move away from reliance on migrant workers, and towards a focus on immigrants and refugees granted

permanent status. Granting permanent status, full access to services and respect of human rights is the only avenue to a strong and just society.

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MISSING FROM TEMPORARY FOREIGN WORKER PROGRAMS: GENDER-SENSITIVE APPROACHES

ABSTRACT

Research has underlined the increasing feminization of migration, and how women in temporary foreign worker (TFW) programs are concentrated in lower-skilled and more vulnerable jobs traditionally considered “women’s work”: caregiving, domestic service, hospitality. Many developing countries look to TFW schemes as an answer to high unemployment levels. A recent report by The North-South Institute and the Centre for Gender and Development Studies, University of West Indies, Jamaica, looks at the linkages between Jamaica and Canada in temporary labour migration from a gender perspective.

In an overview of gender and migration prepared for the Global Commission on International Migration, Nicola Piper draws attention to how changes in global and regional economies and labour markets have resulted in increased economic activity by women, including their participation in migration – a phenomenon referred to as the “feminization of migration” (Piper 2005). This includes a reduction in demand for male labour in some sectors, as well as a shift in emphasis to employment in the service sector both in countries of origin and destination. With increasing levels of unemployment among women as well as men, many labour-sending governments are seeking opportunities for women in temporary foreign worker programs. In most labour-receiving countries, women temporary foreign workers (TFWs) are over-represented in low-paying, vulnerable sectors such as caregiving, domestic and hotel work, and entertainment. Women are under-represented in other, non-traditional sectors such as construction, grounds maintenance, public transport, etc., as a result of gender stereotyping, negative perceptions of some jobs, lack of skills and other barriers. Yet these non-traditional sectors often offer better wages, opportunities for skills development and working conditions than do the sectors where women migrants tend to dominate.

Women comprise about 40% of all TFWs in Canada. Citizenship and Immigration Canada (CIC) figures for the 2005–2008 period show that the number of TFWs in Canada increased from 141,030 to 251,229, with placements for women increasing at a rate slightly higher than for men. While some women find employment as nurses, immigration statistics for the period 2005–2007 show that gains for women TFWs were largely in the National Occupation Category (NOC) level C (intermediate and clerical). Male TFWs were more widely distributed among skill levels A (professional), B (skilled and technical) and C. For men, a large proportion of category C jobs were in agriculture; for women, in domestic work, as caregivers (CIC 2007). The latter work typically takes place in private homes, outside the realm of most provincial labour codes. Studies have shown how these private arrangements can place live-in caregivers at risk of poor and sometimes abusive working conditions.¹ CIC data also suggest that increasingly, lower-skilled workers are coming from a more diverse range of countries: the number of female workers from Mexico, and particularly the Philippines, has risen in recent years, perhaps a reflection of new memoranda of understanding between Canada and these countries.

While research suggests that TFWs often contribute to improvements in living standards for their families, particularly through their remittances, there are questions about the broader development impacts of migration for labour-sending countries. These questions include the economic cost of a father’s or mother’s prolonged absence on those left behind and particularly on children; the social and economic implications of inadequate enforcement of TFW rights in the host country; and the potential for skill loss rather than gains while working in the host country. The North-South Institute (NSI) has been engaged in research and outreach activities on Canada’s temporary foreign workers programs (TFWPs) for several years, beginning with its landmark evaluation of Canada’s Seasonal Agricultural Workers Program (SAWP) in 2002–2003 (NSI 2003). While identifying many now internationally recognized “good practice” elements in the SAWP, the research raised a number of concerns related to

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workers' housing, enforcement of migrant workers' rights, health and safety, and community relations. In 2006, NSI facilitated discussion of these issues, and possible community responses, at multi-stakeholder workshops in three Ontario rural municipalities that receive large numbers of SAWP workers (NSI 2003). In 2007, in collaboration with the Sir Arthur Lewis Institute of Social and Economic Studies, University of West Indies, NSI held workshops in Barbados and Jamaica to discuss its research findings and consider ways of adding value to TFWPs for both labour-sending and labour-receiving countries. These workshops engaged Caribbean government officials, Canadian and Caribbean researchers, trade unions and some migrant workers who shared their experiences living and working in Canada. Some of the issues that were considered were: how to enhancing workers' understanding of their rights in Canada; challenges that increasing numbers of TFWs pose to local host governments in meeting workers' needs – for example, local transportation, health and social services, housing. In Ontario, for example, some researchers have pointed out that greater attention must be paid to the specific needs of women migrants, who are particularly vulnerable to exploitation and sexual harassment. One strategy that has been put forward is the increased support for community organizations that are in contact with women workers and information provided to them about local health and other services. These organizations also organize social activities that help build greater social inclusiveness in communities where racial and other stereotypes about migrant workers present barriers. Caribbean officials also drew attention to the impact that temporary labour migration can have on families, and noted the need for community supports for those “left behind” – too often, government agencies only become involved when a situation reaches a crisis; however, there is scope for more proactive interventions (Piper 2005).

The increasing numbers of women participating in TFWPs in Canada and the persisting gender stereotypes that are evident in sectors and skill levels in which they are employed point to the need for strategies that are more inclusive of women's experiences and needs. NSI and the University of West Indies, Jamaica, are planning research that will link researchers in Jamaica and Canada to identify key gender concerns in TFWPs and explore policy responses for both labour-sending and labour-receiving countries. Among issues to be considered are the following: gender-related barriers to recruitment processes in the labour-sending country; gender-related access issues for women TFWs to better jobs (better pay, occupational health and safety standards, and opportunities for skills development) in labour-receiving countries; access to skills training in both

sending and destination country; and the undervaluing of traditional female occupations. The research will emphasize participatory research strategies that will engage women migrant workers, those considering TFWPs, and other stakeholders to identify key components of gender-sensitive TFWPs. If funding is available, the project could be expanded to include other countries in the Caribbean. The Philippines is a recognized leader in initiatives aimed at supporting and protecting their overseas workers, so the research might be extended to include analysis of Filipino workers' experiences in Canada and gender-sensitive strategies by the Philippine Office for Overseas Workers. Based on the results of the preliminary scoping, the research would focus on potential opportunities for Jamaican female TFWs in non-traditional sectors. This phase will also assess likely implications for TFWs – in particular, women – of the current recession in Canada. While it is expected that employment opportunities for TFWs may contract in the short term, the emphasis on investment in infrastructure projects may maintain demand for foreign workers to fill labour shortages in this sector. In addition, both sending and receiving countries need to consider medium and longer-term labour force needs, and the place of TFWs in labour markets.

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Note

- ¹ A large proportion of both male and female TFWs are in the category “skill level not stated.”

TEMPORARY FOREIGN WORKERS IN CANADA: A DISPOSABLE WORKFORCE?

ABSTRACT

In November 2007, the Temporary Foreign Worker Advocate Office, funded by the Alberta Federation of Labour, published its report titled *Temporary Foreign Workers – Alberta’s Disposable Workforce*. This article provides a summary of some of the issues dealt with in that report as well providing some additional up to date information on temporary foreign workers.

In 2006, for the first time in history, more temporary foreign workers (TFWs) entered Alberta than did permanent immigrants. There were 22,392 TFWs working in Alberta but only 20,717 immigrants were granted permanent residency in 2006. The number of TFWs in Alberta had doubled between 2003 and 2006. These statistics, coupled with many stories of abuse of TFWs, led the Alberta Federation of Labour to initiate a project in April 2007 designed to assist TFWs. They hired labour lawyer Yessy Byl to act as the Temporary Foreign Worker Advocate. The TFW Advocate’s report, co-written with Jason Foster of the Alberta Federation of Labour, was published in November 2007 and, despite some changes in government policies and services since that time, still presents a relevant review of the issues involving TFWs in Alberta and across Canada.

The rise in the number of TFWs since 2006 is even more astonishing. According to Citizenship and Immigration Canada (CIC) numbers, as of December 2007 there were 37,257 TFWs in Alberta, up from 11,462 in 2003 and 22,392 in 2006. Overall, the number of TFWs in Canada almost doubled from 110,476 in 2003, to reach 201,057 in 2007. (These numbers CIC’s “stock statistics” and represent the number of temporary residents present in the CIC system on December 1st of each year.) It is worth pointing out that in 2007, Canada admitted only 131,248 people as permanent residents under the Economic Class.

These numbers indicate a clear shift in government policy, which has occurred without public debate, without a clear analysis of TFW programs or the outcomes of such programs. Canada has acquired a guest worker program that rivals those of the United States and Europe and it appears that most Canadians are completely unaware of this fundamental change in how we deal with people wishing to come to Canada.

The dramatic rise in TFW numbers is attributable to two main factors. First, the federal government changed its TFW Program to allow for low-skilled workers to come to Canada as TFWs. Second, the TFW Program became the “program of choice” for employers in dealing with pressing labour shortages both in the skilled and unskilled workforce. While the numbers of TFWs certainly increased in the booming provinces of Alberta and British Columbia, there were also substantial increases in Ontario, which is suffering from a decline in the manufacturing sector.

As documented in the TFW Advocate’s report, the rapid expansion of the TFW Program has resulted in a great deal of exploitation and abuse of TFWs. While low-skilled workers are generally more vulnerable, exploitation and abuse has extended into the skilled occupations category as well. Basically, the federal government programs allowing employers to bring TFWs to Canada have so few safeguards and protections for such workers that it is very easy for unscrupulous employers and recruiters to take advantage of them.

TFW status

The TFW has a very lowly status in Canada. He or she is considered to be “temporary residents.” Their right to be in Canada is defined by the issuance of a Canada Immigration work permit, which strictly controls where the person may work, for whom and in what type of job. The TFW cannot change employers, jobs or location of the job without first obtaining a new work permit. Any work performed outside of the conditions stipulated by the work permit is a violation of the *Immigration Act* (even when the work in question is imposed by an employer) and can result in the deportation of the TFW. Until very recently,

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TFWs were routinely denied employment insurance (EI) benefits on the basis that they were not “available for work” because of the terms of their work permits, despite being required to pay EI premiums. EI has apparently clarified its policy but most employers and TFWs still believe that TFWs are not eligible. Often employers do not even issue records of employment to TFWs.

TFWs routinely have problems with provincial health insurance plans, and are often cut off from benefits upon being laid off or terminated. They are ineligible for many provincial (e.g. daycare) and federal programs (e.g. ESL training). They truly are considered “second class.”

There is, overall, very little legislation governing TFWs. Most of the “rules” are policy, subject to change and hard to pin down. (The relevant legislation is found in Part 9, Sections 179 to 187, of the “Immigration and Refugee Protection Regulations” of the *Immigration Act*.)

The irony in this program is that according to the *Immigration Act* regulations, an Immigration Officer must be satisfied that the person applying for temporary residency will “leave Canada by the end of the period authorized for their stay.” The reality is that the vast majority of TFWs are coming to Canada because they want to *immigrate* to Canada, not because they want to work temporarily. Canada has not had a reputation for being a country of guest workers; our reputation was one of a welcoming country for *immigrants*. This desire for permanent immigration is common across all skill levels and nationalities of people contacting the TFW Advocate. Perhaps it is this desire that truly makes TFWs so vulnerable – they will put up with a great deal in order to achieve their goal to stay in Canada permanently.

The vast majority of TFWs are coming to Canada because they want to *immigrate* to Canada, not because they want to work temporarily.

Low-skilled workers

Prior to 2002, low-skilled workers were allowed to work temporarily in Canada under only two programs: the Live-in Caregiver Program and the Seasonal Agricultural Worker Program. The former program requires educational or experience pre-requisites, outlines contract provisions to be complied with and provides the true “carrot at the end of the stick”: domestic live-in caregivers are entitled to apply for a fast-tracked permanent residency program (which takes about six months) once they have completed two years of work. The Seasonal Agricultural Worker Program is a highly regulated temporary work program that requires international agreements, which include such provisions as a ban on recruitment fees, maximum stays of eight months, etc. The TFW Advocate project did not deal with workers under these two programs.

The only other workers who were eligible to apply for temporary resident status as TFWs, prior to 2002, were skilled workers, people trained and hired into occupations categorized as management levels or skill levels A and B under the National Occupation Classification (NOC).² Generally, these people were from Europe or the United States; they were hired for short-term trades projects, and were visiting

academics at universities, professional staff moved to Canada by companies for a limited time, etc. In other words, these workers were seen as not needing any protection under the TFW Program, so there were no protective structures or requirements. It is this program that was expanded to include low-skilled workers (NOC C and D). The only “protections” that were put in place were that the employer had to provide a contract of employment, whereby he or she agreed to abide by provincial employment standards, to provide return airfare, to arrange for housing at a “reasonable” cost and to provide health insurance. As of January 2009, some additional protective clauses were required to be included in this contract of employment.

The difficulty with this limited protection of requiring employment contracts is that if an employer fails to comply with any those terms, there was absolutely no enforcement or policing process in place within the federal government. The TFW Advocate Office routinely saw low-skilled workers who had to pay their own airfare, who were placed in costly, sub-standard housing (often at a substantially higher price than Canadians were paying for similar housing), who were not provided with health care and who were not paid in compliance with employment standards and the rate of pay stated in the contract. While complaints were made to Service Canada, the department issuing Labour Market Opinions (LMOs, the official government “permissions” issued to employers enabling them to hire TFWs) had no mandate or ability to deny subsequent requests for LMOs to those employers found guilty of breaching the contracts, let alone enforce those contracts or obtain any remedy for TFWs whose employment contracts were not being upheld. All enforcement work was left to the provincial governments’ employment standards departments. A number of protective clauses in the

employment contracts have been ruled as unenforceable by some of the employment standards departments. For example, if a TFW is provided with less hours of work, they have no remedy. They could, one supposes, sue for “constructive dismissal,” but that is obviously not a practically available remedy.

Recruiters

With the rapid expansion of the skilled TFW Program and the sudden demand for TFWs by employers, many greedy people saw a golden opportunity to make a great deal of money playing upon people’s desperate hopes to immigrate to Canada. People from countries that are notoriously slow or even known as being “uneven-handed” in the Canadian immigration system were the most desperate for any opportunity to come to Canada and were anxious to engage any help they could find to reach Canada.

Basically, the use of recruiters to bring TFWs to Canada is totally unregulated by the federal government. Indeed, only two provinces (Alberta and British Columbia) prohibited recruitment fees. (Quebec does have some regulations dealing with recruitment fees.)

Skilled workers, ranging from cooks to welders, were charged outrageous fees, ranging from \$5,000 to \$15,000, for jobs in Canada. Many low-skilled workers paid recruitment fees as well. They were often promised that they would be able to immigrate to Canada. As well, these people typically paid for all of their own expenses. In many cases, they came to Canada only to find that there were no jobs and absolutely no support system for them, resulting in some TFWs being caught in the nightmare of having to work illegally simply to survive. Some were deported as a result. People often spent their life savings to get to Canada. Some borrowed money to pay the recruiters and needed to repay those recruiters and lending institutions money, even in cases where they were laid off upon arrival in Canada. It should be pointed out that in some countries, people can still go to jail for civil debts, and the Government of Canada failed to do anything to assist these people and to eliminate the abuse. Even in Alberta, where such recruitment fees were prohibited, many recruiters quickly changed their tactics and ensured that they collected the money “up front” outside of Canada, got additional security such as mortgages on family properties and threatened workers that they would never work again in Canada if they told people they paid a recruitment fee. The Government of Alberta has been largely unsuccessful in trying to rectify many of these situations since they are unable to act outside of Canada and because, quite simply, the responsible department has not been provided with sufficient resources to deal with this problem on any comprehensive basis.

The Government of Manitoba has proposed interesting legislation that may provide some measure of security in this area. In addition to legislation that would prohibit recruitment fees, they propose to require recruiters and employers who employ TFWs to post bonds in order to ensure compliance. This bill is scheduled to come into effect on April 1, 2009, pending completion of the necessary regulations.

While the TFW Advocate Office saw the issue of recruiters come up more often in relation to skilled workers, many low-skilled workers were also required to pay recruitment fees. There were a number of incidences of people being required to make cash disbursements on payday, simply for the privilege of earning approximately \$10 per hour.

The Alberta experience

The Province of Alberta has taken a great deal of initiative in establishing programs to assist TFWs. It has established a Temporary Foreign Worker Advisory Office, with office locations in the two main cities of Edmonton and Calgary, a TFW hotline, a team of Employment Standards officers mandated to conduct reviews of employers who employ TFWs (without a complaint pre-requisite), and they have provided some funding, on a pilot- project basis, for settlement services offered to TFWs. These initiatives have ensured some progress in addressing certain issues facing TFWs. Yet, quite frankly, the overwhelming amount of problems make even these initiatives seem somewhat inadequate.

Recommendations for the future

The TFW Advocate’s report concludes by finding that: “The TFW Program must be judged on its capacity to protect TFWs. Using this criteria the program is an abject failure. It is the view of the Advocate that the TFW Program as it currently exists must come to an end. The contortion of its initial purposes must cease, and Canadians need to find another solution to whatever labour market challenges we face.”

Fundamentally, the position is that if Canada requires workers, then Canada should bring people in as permanent residents, a status that affords them equal civil rights. The report also proposes a number of short-term solutions to deal with issues facing TFWs already in Canada. Some of those recommendations have been adopted since the report was published. For example, in December 2008, CIC implemented “dedicated processing functions to... process changes to work permits to allow for TFWs to leave abusive or unsatisfactory work situations,” shortening the processing time for new work permits with new employers from ten to three weeks. The Province of Alberta has also implemented some of the measures proposed in the report. The recommendations provide a useful tool for evaluating how other provinces are dealing with the issues involving TFWs.

As this article is being written, the irony is that the failing economy may achieve the primary recommendation – shutting down of the Temporary Foreign Worker Program, as expanded in 2002 and after that. However, what will continue is the challenge of ensuring that the rights of the thousands of TFWs who remain in Canada are protected and that we cease treating them as “disposable workers.”

Notes

¹ This report can be found at <www.afl.org/campaigns-issues/>.

² <www5.hrsdc.gc.ca/NOC/>.

Since this article was written in early 2009, the economy has worsened and is now just showing signs of recovery. Unfortunately the government chose to severely limit the TFW program by first of all eliminating the “renewal” process for Labour Market Opinions (despite an all-party recommendation of the Parliamentary committee report on TFWs that renewals of LMOs be made much easier) and making it virtually impossible for employers to obtain LMOs. While the policy was understandable in terms of preventing more TFWs from entering Canada, the policy has created widespread hardship...and destitution....amongst TFWs who are working in Canada. The policy not only makes it impossible for TFWs to find a new job once they are laid off, but it has resulted in employers being forced to fire TFW employees regardless of the worker’s seniority and ability and regardless of whether the employer needs to reduce staff.

This policy has not only resulted in severe hardship but also in a steep rise of the numbers of undocumented workers. We have now successfully created a very large “subclass” of underground workers.

The other subsequent news of note is the release of the 2008 CIC statistics. In 2008 we saw the astonishing development of there being more TFWs counted in the December 1 census than there were permanent residents admitted in that year. Indeed, what is now clear is that permanent resident numbers have been, in essence, stable over the past 5 years (235,824 in 2004 to 247,202 in 2008) while TFW numbers across Canada have doubled (again Dec. 1 “stock” figures: 126,026 in 2004 to 252,196 in 2008).

BUILDING A DISPOSABLE WORKFORCE THROUGH TEMPORARY MIGRATION POLICY

ABSTRACT

This article outlines how federal policies under the Conservative government have supported a tremendous increase in temporary workers and left them subject to significant abuse and exploitation in the workplace. Meanwhile unions and migrant rights advocates have had to step in, as have some employers, developing innovative practices designed to address policy shortcomings. The dramatic rise in the numbers of temporary workers is in contrast with a decline in permanent resident migration. This ideological policy shift has serious implications for the labour force and social cohesion.

For many countries, importing temporary labour remains a big show. How big? About 2.5 million temporary workers entered OECD countries in 2006 (OECD 2008). That is roughly three times the number of workers who entered on a permanent basis.

The influx of temporary migrant workers to Canada versus the number acquiring permanent residency has followed this global pattern for the last decade. However, the number of temporary workers has increased dramatically since the Conservative government came to power in 2006.

Early on in the government's first term in office, Monte Solberg, then Minister for Human Resources and Social Development (HRSDC), made it clear that if employers needed labour in particular regions of the country, he would accommodate them by making changes to Canada's four-decade-old Temporary Foreign Worker Program (TFWP).¹

Initially this included establishing lists of specific occupations deemed to be short in supply of interested or adequately skilled workers. Tagged as "Occupations under Pressure" (OUP) lists, the measure omitted defining what actually constituted an occupation that was under pressure... other than an employer saying they could not find anyone. Once an occupation was placed on the OUP list, employers could take advantage of faster access to the TFWP.

Previously, employers were obligated to advertise domestically for at least 6 weeks, but with the introduction of the OUP lists, employers' needed only claim they had advertised for 7 days. No measures were introduced to ensure that such advertising had indeed taken place.

HRSDC also created a step-by-step guide to "employer-friendly language," explaining how to hire temporary migrant workers.

In addition, federal funds were allocated to establish pilot offices in British Columbia and Alberta, with dedicated staff to help "fast-track" employer applications for temporary workers. This pilot was dubbed the Expedited Labour Market Opinion pilot (ELMO); when coupled with the OUP lists, the program provided a pair of comic acronyms, and employers saw 85% of their applications positively processed within just 3-5 days.

In 2006, the Conservative government declared its intention "to create the best educated, most skilled, and most *flexible* workforce in the world." Temporary workers are an important piece of the federal conservative government's efforts to create this "flexible" workforce. In their 2007 budget, close to \$150 million were provided over five years to federal departments having responsibilities related to the TFWP, with an additional \$35.5 million annually thereafter. The allocation was designed to improve the processing of employer applications for temporary workers, reduce delays and respond effectively to regional labour shortages. Close to 80% of this funding went to HRSDC, to service employer requests for temporary workers (OAG 2009).

The 2007 Conservative Budget gave all Canadian employers the ability to access temporary foreign workers "for any legally recognized occupation from any country" (Finance 2007). No longer are OUP lists required; employers can now access the TFWP for 30,000 job titles that cover over 500 occupational groupings. In essence, any job in the Canadian labour force is open to temporary workers.

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Table 1

Foreign workers present on December 1st by top ten source countries, 1999-2008

Source countries	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Philippines	6,002	6,388	8,268	10,785	12,504	15,307	17,687	21,566	33,882	45,006
United States	20,267	21,354	21,041	20,205	21,012	21,943	23,658	25,278	26,779	28,754
Mexico	8,120	9,995	11,172	11,606	11,641	11,950	13,306	15,185	18,154	22,579
United Kingdom	5,720	6,526	7,031	7,041	7,482	9,433	10,713	11,138	12,623	14,530
Australia	4,031	4,577	5,441	6,254	6,897	8,269	8,606	9,063	9,842	13,222
France	2,888	3,368	3,778	4,033	4,400	5,968	7,481	9,085	10,023	11,788
India	1,536	1,879	1,898	2,174	2,689	3,710	5,087	6,344	8,671	11,114
Japan	7,155	6,568	6,493	7,828	8,281	8,608	8,841	8,428	7,871	9,316
China, People's Republic of	1,213	1,338	1,588	1,824	1,950	2,427	3,080	4,206	6,632	8,534
Germany	1,658	1,993	2,267	2,068	2,257	3,119	3,639	5,430	6,908	8,239
All Countries	82,111	89,793	96,525	101,259	109,860	125,367	141,032	161,295	199,942	251,235

Source: <www.cic.gc.ca/english/resources/statistics/facts2008/temporary/04.asp>.

None of the federal level administrative changes put in place between 2006 and 2009 provide comprehensive nor strong compliance, monitoring or enforcement mechanisms that protect these workers' safety or protection from exploitation. The program is quite simply an employer-driven vehicle, serviced by the Canadian government.

Before the global economic crisis swept across Canada in the fall of 2008, employers were rushing to take advantage of the TFWP. Table 1 illustrates how popular it had become.

According to Citizenship and Immigration Canada's data, the number of temporary foreign workers in Canada in 1999 was just over 80,000. In 2005, the number of temporary workers was slightly more than 140,000, and in the ensuing years, with the Conservative government, this number climbed to over 250,000 in 2008.

It is worth noting that the government's collection of data on temporary workers is contentious. Government numbers are sometimes different from other credible sources or categories where temporary workers are employed are unknown.² For example, in November 2009, Canada's Auditor General Sheila Fraser released a critical report of the TFWP. According to the Auditor General, Canada allowed almost 370,000 temporary foreign workers to fill a short-term need for labour in 2008 (OAG 2009: 7).

The Auditor General's report made clear that decisions in the Canadian immigration system are increasingly being shifted to provinces and Canadian employers without any follow-up to address fraud and abuse. She took direct aim at the TFWP, which brings in an increasing number of often low-skilled workers for jobs ranging from oil sands labourers to construction workers on Olympics facilities and live-in caregivers. Ms. Fraser said little is being done to catch the abuse occurring on all sides of the program. Workers are particularly vulnerable, she said, given that they often don't speak English, and owe their status in Canada to their employer (*Globe and Mail* 2009).

Fraser's report to Parliament made it clear that Ottawa is bringing in big changes with little understanding of the potential consequences these changes might have.

In just a few years, Canada's immigration policy had shifted, increasingly promoting temporary rather than permanent migration. According to CIC data, for December 2008,

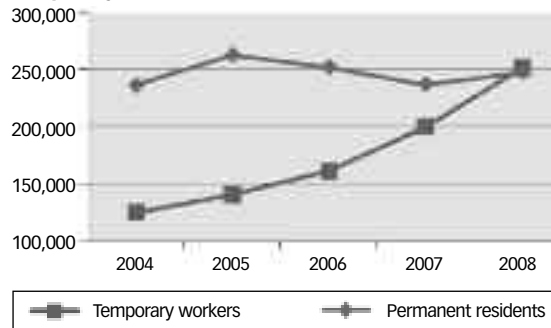
Canada was host to 251,235 temporary foreign workers, compared to 242,243 individuals who had been granted permanent residency status (CIC 2008a, CIC 2008b), as illustrated in Figure 1.

In addition, the increasing number of temporary workers is outstripping the number of skilled workers in Canada (Figure 1). This shift in Canada's immigration policy, favouring temporary over permanent migration, is linked to a United Nations High Level Dialogue on International Migration and Development that took place in the fall of 2006. A group called the International Organization on Migration (IOM) presented a well-received set of proposals to attending UN Member States, advocating for greater integration of labour markets globally and for state policies designed to enhance labour flexibility (CLC Analysis).

By the end of 2007, many OECD member countries like France, Hungary, Romania, the U.K., Canada, Finland, Japan, Norway, Poland and Portugal had taken heed and introduced either substantial changes or new initiatives to their immigration policies, to correspond with this shift.

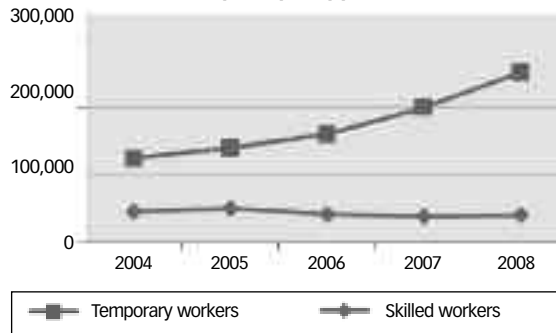
The most recent ten-year Outlook for the Canadian Labour Market report prepared by HRSDC offers an interesting perspective. That report stated, "No widespread labour shortages are expected to emerge over the next ten years" (HRSDC 2006).

Figure 1
Comparison of new permanent residents and temporary workers, 2004-2008



Source: *Facts and Figures 2008*, Citizenship and Immigration Canada.

Figure 2
Comparison of temporary workers (as of December 1st)
and skilled workers (principal applicants), 2004-2008



Source: *Facts and Figures 2008* Citizenship and Immigration Canada.

Although some shortages of skilled workers at a detailed occupational level are expected, the authors forecast neither a generalized problem nor a shortage of lower-skilled workers, despite the pending retirement of baby-boomers. Furthermore, the report anticipates the entry of highly educated young Canadians and permanent immigrants entering the workforce to be more than sufficient to meet our needs for highly skilled workers.

The report also notes that in recent years, “the strong rise in demand within high-skilled occupations has been adequately met by a rising supply of qualified workers.” The report states, “real wages by broad skill level relative to the economy-wide average have been fairly constant since 1997 [suggesting] the absence of significant imbalances between the skills demanded by employers and the availability of qualified labour” (*Ibid.*: 4).

The report also found some increase in the unemployment rate of university-educated workers compared to those with lower qualifications, and some slippage in their relative earnings in recent years. “An increasing proportion of individuals with postsecondary education can be found in low-skilled occupations....The proportion of university-educated individuals in low-skilled occupations [rose] from 12% in 1990 to about 17% in 2005, providing some evidence that there may be an over-supply of university graduates” (*Ibid.*: 27).

The labour movement has been steadily questioning the integrity of Canada’s TFWP, including the manner in which tight labour markets are determined. As pointed out, the method for identifying an “occupation under pressure” and accessing temporary workers has been lenient. More rigorous methods do exist. For example, the U.S. Bureau of Labor Statistics uses a three-part methodology to determine whether an occupational sector is under pressure. Their approach looks at employment growth, the unemployment rate, and wage growth factors. To be truly considered an occupation under pressure, occupation-specific employment growth must be at least 50% greater than average; the unemployment rate must be at or near historically low levels, and wage growth must be at least 30% greater than average.

Most economists would find this a reasonable methodology to help assess validity of labour shortages, but such an approach is not used by Canada’s TFWP.

The defects in the program subject temporary workers to risk of death, injury, exploitation and abuse, and the domestic labour force experiences negative labour market distortions.

Here are a few examples:

- In 2007 in Alberta, two temporary workers from China were killed on the job when a tank they were working on collapsed. Four other temporary labourers were injured. After nearly two years and just 3 days shy of the deadline, 53 distinct charges were laid against the employer, including several counts of failing to ensure the health and safety of the workers. During the investigation, Alberta Employment and Immigration also determined that 132 Chinese temporary foreign workers were not paid from April to July 2007 (Christian, n.d.).
- In the summer of 2006, the B.C. Labour Relations Board heard complaints that approximately 40 construction workers were brought to Canada by an international employer under the TFWP and FTA exemptions with offers of employment that were never honoured. The workers from South and Latin America had their visas confiscated by their employers upon entering Canada, and were paid as little as \$5/hr, while wages for a similarly qualified construction worker were in the range \$25/hour. Canadian construction unions provided the temporary workers support to challenge their situation, and pointed out the employer’s claim that importing specialized temporary construction workers was dubious.³ The employer responded by intimidating and attempting to coerce the temporary workers to accept their fate or return home. The case went to the B.C. Human Rights Tribunal, and in December 2008 a ruling was issued confirming the presence of systemic of wage discrimination (BCHRT 2008). The employer is appealing the ruling and Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism is on public record for inappropriately impugning the ruling (CLC Correspondence 2008).
- In September 2006, Park Place Seniors Living Ltd, a long-term care home in Kelowna, operated with approximately 70 long-serving unionized workers who provided care services for its residents. The home subcontracted its human resources management to a private labour contractor – AdvoCare Health Services Ltd. AdvoCare told the aide workers they would be offering a drastically reduced wage and benefits package, well below the regional average being paid to aide workers. Refusal to accept meant a layoff. The company then claimed there was a shortage of care aides and successfully submitted an application to hire temporary foreign workers. The company recruited its new workers from India, the Philippines, Colombia and South Korea. This is a clear case of a company pleading on a Wednesday they have a “shortage of workers” when on the Monday beforehand, they had dismissed an experienced pool of skilled and qualified employees unwilling to accept dramatically lower wages and benefits (Flecker 2008).

- Cases are regularly filed with the CLC of employers posting job notices for positions like chambermaids, and maintenance staff with the tacit – and at times explicit – understanding from the employer that posting the job ad is merely an administrative requirement necessary to secure temporary workers. There is no intention to hire from the unemployed and available domestic workforce (CLC Human rights files).
- The Alberta Federation of Labour documented over 100 cases and fielded over 700 other allegations of workplace abuses and exploitation involving labour brokers in a short 6-month period (AFL 2007). Alberta’s own Employment standards department reported that 60% of restaurant and hospitality employers with temporary workers were found to be contravening the Employment Standards Code.⁴ These reports illustrate how fundamentally flawed and exploitive the TFWP is, in reality.
- The B.C. Building and Construction Trades Council, the BC Government and Employees Union, the Canadian Labour Congress, the United Food and Commercial Workers, faith groups, the Quebec Human Rights Tribunal, and numerous advocacy groups supporting temporary workers, to name just a few, have also documented numerous cases of employer fraud, human trafficking violations, workplace abuses, labour brokers and employer exploitation, as well as workplace injuries and fatalities associated with this program (*Ibid.*)⁵

The labour movement recognizes the demographic imperative to build our labour force via migration, and more importantly advocates that immigration policy must meaningfully provide temporary workers with the same rights and protections as it does the domestic workforce. As the campaign adage puts it – “good enough to work here, good enough for citizenship.” It is the labour movement and migrant rights advocates who are advancing positive measures to support temporary workers.

For example, United Food and Commercial Workers Union has for decades established temporary worker centres that provide agricultural workers with first-language services, skills training, and advocate for better wage and working conditions. Locals such as UFCW 1118, representing workers in a meat-packing plant in Red Deer, Alberta, negotiated with their employer to provide workplace ESL training, housing, transportation and community integration supports, as well as a pathway to permanent residency status via collective agreement negotiations – despite layoffs of domestic workers in the sector (*Briarpatch* 2007).

None of the federal level administrative changes put in place between 2006 and 2009 provide comprehensive nor strong compliance, monitoring or enforcement mechanisms that protect these workers’ safety or protection from exploitation.

In Nova Scotia, the International Brotherhood of Electrical Workers (IBEW) secured clauses in their collective agreements to ensure that temporary workers in their locals are sponsored by the employer to obtain permanent residency status.⁶

United Steel Workers, working with Migrant Ontario, established the first Independent Homeworkers Association for the mostly female temporary workers who arrive under the Live-in Caregiver’s stream of the TFWP. The association provides subsidized access to dental care and financial and telecom services that help connect these women workers with their families back home (USW). This alliance between USW, Migrant Ontario and the Association advocates for changes to be brought to our immigration policy and to the TFWP, which discriminates against these women workers.

The Canadian Labour Congress has established a national network of advocates that researches and documents abuses related to the TFWP, and lobbies for sweeping reforms to a program that is, at its heart, exploitative, discriminatory and anti-worker.⁷

Against the backdrop of a globally deteriorating economy, devastating job prospects for domestic workers, and a ramped-up TFWP that has shunned the introduction of any meaningful compliance, monitoring and enforcement mechanisms, one would think policy-makers would heed labour and migrant rights advocates’ calls to apply the brakes to this program. However, this government remains disinterested in developing comprehensive policy changes that can truly protect temporary workers.

Although the Conservative government announced plans to introduce regulatory changes to the TFWP in October 2009, their changes fall far short of expectations, and offer few remedies to the numerous and well-known flaws of the program. The CLC provided

a detailed critique of the proposed changes, which can be viewed at <www.canadianlabour.org>.

The shortcomings are numerous and include:

- failure to adopt measures that take responsibility for the explosive growth and subsequent exploitation and abuse many temporary workers face under the TFWP;
- failure to fulfill the duty of fairness to temporary workers;
- favouring employers while penalizing newcomers;
- enabling a systemic and gender-specific discriminatory impact for some temporary workers seeking permanent residency status;
- failure to reflect meaningful evaluations, recommendations or audits of the TFWP;

- failure to present a rigorous benefits and costs methodology or accurate estimate of the number of temporary workers at risk;
- failure to candidly portray the inputs received by labour as part of the “engagement strategy.”

In addition, the proposed regulatory amendments do little to provide meaningful protections for vulnerable temporary workers who are already in Canada.

The amendments fall short of establishing a national regulatory framework enabling provinces and territories to deliver effective compliance, monitoring and enforcement mechanisms consistent with their jurisdictional labour standards. They do not put in place the comprehensive regulatory measures that are needed to ensure that employers are comprehensively recruiting and retaining unemployed and underemployed workers from the domestic labour force. Finally, they fail to ensure that employers are seeking temporary workers to fill legitimate and proven temporary labour/skills shortages.

Much is wrong with the TFWP, including the fact that at its core, it is an exploitative, employer-centric initiative. As many countries have pointed out, there is nothing more permanent than a temporary foreign worker program – changing this maxim must be the objective of progressive policy-makers in Canada.

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Notes

- ¹ For additional information, see the Association of Canadian Studies ‘ Spring 2006 issue of *Canadian Issues / Thèmes canadiens*.
- ² TFW numbers by province, and NOC for 2008, for example, include significant totals of migrant workers employed in unknown sectors. For example, 2008 data tables for Ontario included nearly 11,000 migrant workers in “unstated job sectors” out of nearly 60,000 migrant workers in the province.
- ³ Correspondence with BC & Yukon Building Trade Council research staff. “The workers were not NOC A and B. They were labourers. The employer filled out the applications and put down bogus titles like ‘Supervisor of Segment Transport Beam. ‘That meant the worker operated a conveyor belt, it was a job that anyone could learn in two hours according to testimony at the BCHRT. The locomotive operator was similarly ‘Supervisor of Rail Train. ‘There was an interview at the Canadian consulate to approve the incorporate transfer applications, but the Canadian official didn’t verify the claims about the specialized skills the workers had (by asking for certifications, letters of experience, precise questions about what the job entailed).”
- ⁴ CLC submission to Citizenship and Immigration Canada on changes to Immigration and Refugee Regulations, December 2009.
- ⁵ See also *Briarpatch Magazine*, Manufacturing “The World’s Most Flexible Workforce’ *The Harper Government’s Double-doubling of the Foreign Worker Program*, November 2007; www.canadianlabour.ca/en/Migrant_workers; <www.migrants.ca; www.kairosCanada.org/e/refugees/migrants/index.asp>.
- ⁶ Letter of Understanding between FA Tucker and IBEW Local 1928, October 2007.
- ⁷ See CLC response to regulatory changes to IRPA as it affects TFWs.

RESPONSIBLE RECRUITMENT OF TEMPORARY FOREIGN WORKERS IN CANADA

ABSTRACT

The global competition for talent, coupled with Canada's unique demographics, has fuelled an increase in foreign talent coming to Canada. The Temporary Foreign Worker Program provides employers with a regulated strategy to recruit foreign talent as a complement to their ongoing search for Canadian talent. This article outlines the need for responsible recruitment strategies and examine some issues facing temporary foreign workers coming to Canada.

Responsible Recruitment Strategies

Recruitment strategies must be consistent, whether the recruitment is taking place domestically or in a foreign country. The wage being offered should not vary and the job description should be identical for all candidates. There are a certain number of important things that an employer must take into consideration when recruiting talent from a foreign country.

- **Know the source:** It is imperative that employers know the source from which they are recruiting. "Ignorance is not an excuse" certainly applies to foreign recruitment. Employers must be confident that the entire process is transparent for all concerned and that there is no exploitation present in any form.
- **Eliminate exploitation:** Candidates should not pay fees to be considered for a job opportunity and should not be forced to pay a portion of their earnings to unscrupulous agents. Candidates should be treated in a fair and ethical manner throughout the hiring process.
- **Provide a detailed job description:** Job descriptions must be very detailed and provide all candidates a clear picture of what the job entails. Candidates should realize that gross salaries can be very misleading and they should be provided a clear snapshot of their compensation – see Table 1).
- **Discuss expectations and make sure they are realistic:** The candidates must understand their legal status should they be granted a Canadian work permit. It is incumbent upon employers to properly explain the foreign employees' Canadian status and to provide each employee with a clear picture of attainable progression within their employment.
- **Explain the entire process to the foreign national:** When candidates enter into an employment agreement, they must understand the temporary nature of this agreement. They will be welcomed into Canada with a work permit to which a specific term is attached. There are opportunities available to apply for extensions to these terms or for landed status, but these applications can be declined and may incur costs. Promises should never be made and candidates should be educated about the processes involved, should they choose to apply for an extension. They should also have a clear understanding of what the ramifications of a layoff or a termination of employment might be.

Several strategies are available to bring foreign talent to Canada. Employers must be aware of the strategy they are using and comply with all legislation pertaining to that strategy. The Low Skill Pilot Project of the Temporary Foreign Worker Program (TFWP), for example, require that employers pay for the return transportation of any foreign national they recruit. In these cases, the employer cannot recover these costs from the foreign national.

Critics of the TFWP such as Olivia Chow, the NDP's Immigration and Citizenship Critic, maintain that this program "drives down wages." Responsible recruitment completely dispels this argument. Employers must perform constant wage reviews and ensure that the wages offered for each job are competitive. Foreign workers must be paid a wage that is equal to that being paid to a Canadian in an equal position.

LYLE TOMIE

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Table 1
“Snapshot” of workers’ wages and main expenses^a

Description	\$10/hour	\$12/hour	\$14/hour	\$16/hour	\$18/hour
Gross monthly pay	\$1,760.00	\$2,112.00	\$2,464.00	\$2,816.00	\$3,168.00
Federal tax	-\$109.23	-\$158.50	-\$207.78	-\$257.05	-\$306.32
Provincial tax	-\$25.90	-\$58.74	-\$91.59	-\$124.44	-\$157.29
Canada Pension Plan	-\$72.68	-\$90.11	-\$107.53	-\$124.95	-\$142.38
Employment Insurance	-\$30.45	-\$36.54	-\$42.63	-\$48.72	-\$54.81
Net monthly pay	\$1,521.74	\$1,768.11	\$2,014.47	\$2,260.84	\$2,507.20
Bus pass	-\$88.00	-\$88.00	-\$88.00	-\$88.00	-\$88.00
Rent	-\$500.00	-\$500.00	-\$500.00	-\$500.00	-\$500.00
Food and entertainment	-\$300.00	-\$300.00	-\$300.00	-\$300.00	-\$300.00
Total	\$633.74	\$880.11	\$1,126.47	\$1,372.84	\$1,619.20

^a This matrix is an example of a “snapshot” of workers’ compensation. It summarizes a worker’s monthly salary based on a 40 hour work week. Candidates should be given this information when they are considering employment, so that their decision to pursue a Canadian employment opportunity is based on realistic expectations of their potential monthly disposable income.

During the recruitment process employers must be sensitive to the unique challenges foreign workers may face as they start working in Canada. There are cultural differences that must be understood by both parties and language differences must be addressed to ensure fairness and safety in the workplace.

When an employer initiates the foreign recruitment process, the entire company must be briefed on the process. It will help address any concerns that existing Canadian employees may have with this strategy. We currently work with over 100 Canadian employers, and in our experience, the foreign workers’ Canadian colleagues have been their best allies as they integrate into their new workplace.

Employers must translate all documents pertaining to employment into the first language of the foreign worker. Responsible recruiters ensure that the candidate is provided with a detailed job description in his or her first language and that all documents requiring a signature are translated properly, guaranteeing that the candidate has been able to properly consider any agreements entered into. All work-related manuals (operations, safety, etc.) and signage in the workplace should also be translated.

Responsible recruitment strategies are paramount for all responsible employers. Employers of temporary foreign workers will benefit greatly when they recruit responsibly. Responsible recruiting lowers the costly attrition rate often attributed to the influx of foreign talent. It makes the workplace safer and helps increase the morale of the entire organization.

Some issues facing foreign workers coming to Canada: Over the years we have helped thousands of foreign nationals gain employment with Canadian employers. We have definitely seen the positive impact these workers have had on their new companies, but there are several issues that are apparent as the workers adjust to life in Canada.

Housing: When foreign workers come to Canada from developing countries the first major obstacle they face is the need for affordable and reasonable accommodations. The employers must not ignore this necessity as they prepare to welcome the foreign worker. The cost of

accommodations must be included in the “compensation details.” Affordable and reasonable accommodations must be secured prior to the arrival of the foreign worker, meaning that the employer will oversee the process of acquiring these accommodations. Foreign workers will face many challenges as they enter the Canadian housing market. They are often overwhelmed with the high cost of accommodation in Canada and are frustrated as they seek less expensive accommodations. It is imperative that this issue be addressed before the foreign worker agrees to come to Canada.

High cost of living: When a foreign national enters into an employment contract to work for a Canadian employer in Canada, one of the main attractions is typically the compensation. An average low-skilled labourer in Mexico, for example, will earn \$50 to \$70 CDN per week. In Canada, this same worker in Canada will likely earn \$450-700 CDN per week. The foreign worker often has a hard time shouldering the higher costs associated with living in Canada. Taxes, accommodations, clothing, food and entertainment are all significantly higher than what these workers are used to paying in their home country. The workers must be educated prior to their arrival so that they are not surprised by this reality.

Work permit restrictions: The vast majority of TFWs enter into Canada with a work permit. This work permit authorizes them to be employed by a designated Canadian employer. The workers’ opportunities for advancement are tied to this work permit, meaning their workplace mobility is more cumbersome. They are allowed to switch employment during their work term but the new employer must be eligible to hire a foreign worker and the worker must apply for a change to his or her work permit. Advancement within the company is usually more difficult because the foreign worker would need to acquire a new work permit if the advancement meant a job description that required different skills. Foreign workers can feel trapped by the bureaucratic hurdles they face as they consider different opportunities; however, these hurdles are well intentioned safe guards that have been put in place to protect the foreign worker. There are some unfortunate examples of employers bringing workers to Canada

as “low-skilled” workers, only to have them work for a lower wage in a skilled position.

Perceived discrimination: Foreign workers who enter Canada in the TFWP are temporary migrants to Canada. They enjoy the same basic rights as all Canadians, but they are in Canada on a temporary basis only and, as mentioned earlier, have certain restrictions attached to their work permits. It is important that all of their rights as well as their restrictions be fully explained to them to dispel perceptions that they are being discriminated against.

Exploitation: There are several potential forms of exploitation that can be evident when a temporary foreign worker is working in Canada. The most obvious form of exploitation occurs when the employee is not properly compensated for services rendered. Foreign workers must be cognizant of potential exploitive practices that may be perpetrated on them. Over the years we have observed the following;

- Workers coming to Canada unaware of the costs associated with living in Canada;
- Workers being illegally contracted out to other employers;

- Workers being enticed into illegal cash jobs;
- Workers not receiving the necessary training to properly perform their job duties;
- Workers being forced to live in sub-standard housing;
- Workers being overcharged for accommodations;
- Workers paying outrageous fees to various consultants for “settlement services.”

These are some of the many examples of exploitation that can occur in their working relationship. The best way to address these issues is by notifying every foreign worker of their rights.

The need for temporary working migrants in Canada will be prevalent for years to come. The programs, as established by the Canadian government, can work well when there is complete transparency throughout the process. Employers benefit when recruitment strategies are properly considered and properly implemented. Foreign workers have a positive experience when their well-being is considered prior to and during their stay in Canada.

TEMPORARY FOREIGN WORKERS IN CANADA: DOES A POLICY WITH SHORT-TERM PURPOSE HAVE A LONG-TERM IMPACT ON UNEMPLOYMENT?

ABSTRACT

Provisions in the Canadian Temporary Foreign Worker Program such as comparable wages and working conditions with working Canadians are meant to protect the employment of local workers. However, they appear to be insufficient to ensure that the program does not have adverse effects on unemployment. By not allowing wage increases, incentives to migrate across provinces and convergence in provincial unemployment rates are therefore decreased.

Temporary Foreign Worker Programs (TFWPs) were typically developed to help employers accommodate excess demand for labour without undue delays, thereby avoiding economic slowdowns. In the past, they were developed in countries that had no permanent settlement policies, and that experienced generalized acute shortages of unskilled labour. For example, in the 1960s, the average unemployment rates in many European countries with TFWPs was below the 2% mark,¹ and so-called “guest workers” were a complement to other labour force adjustments, such as increased female participation, returns from the colonies and inflows of refugees. In countries where investment in physical capital was booming, partly because of reconstruction, productivity and wages grew simultaneously; temporary foreign workers ensured that economic growth was not slowed down and sometimes allowed the reallocation of native workers to more attractive sectors (OECD 2001). However, in some cases, large flows of temporary workers also delayed structural changes or investment in new technologies (Castles 1986). Nevertheless, the combination of design flaws and severe recession following the first oil shock in the early 1970s led to the elimination of those programs.

Over time, TFWPs have also been used by countries that, like Canada, had developed permanent settlement policies to attract highly skilled workers. They are seen as an efficient tool allowing the country to compete in the worldwide market for brains and to ensure long-term growth. Recently, however, TFWPs for unskilled workers have garnered renewed interest as the long period of economic growth experienced since the mid-1990s was seemingly creating labour shortages in regions and sectors across Canada. In 2002, Canada extended its TFWPs to unskilled labour beyond the two traditional categories of seasonal agricultural workers and live-in caregivers. The basis for such expansion was the standard argument that the country was experiencing local shortages of labour that might slow down growth either because of a lack of availability of suitable workers or because of the ensuing rise in wages. As shown in Figure 1, overall unemployment in Canada has indeed fallen since the mid-1990s, dropping from 11.4% to 6.0% between 1993 and 2007.² Concurrently, the number of annual entries of temporary foreign workers (TFWs) rose substantially, reaching 165,200 in 2007, a 63.6% increase since 1993.

The clear advantage of the program is that employers who meet the required conditions are given access to a large pool of workers with adequate skills. The labour problem is assumed to be temporary, as is the solution; however, as described below, conditions for hiring skilled and unskilled TFWs are somewhat different and the unskilled portion of the program includes a stronger demand-management component than its skilled portion. Generally speaking, demand-management components such as the labour market test are introduced in program design to minimize the substitution by employers of local workers with TFWs simply to lower costs. One of the questions that arise is whether a policy designed for temporary labour can have permanent adverse effects. In other words,

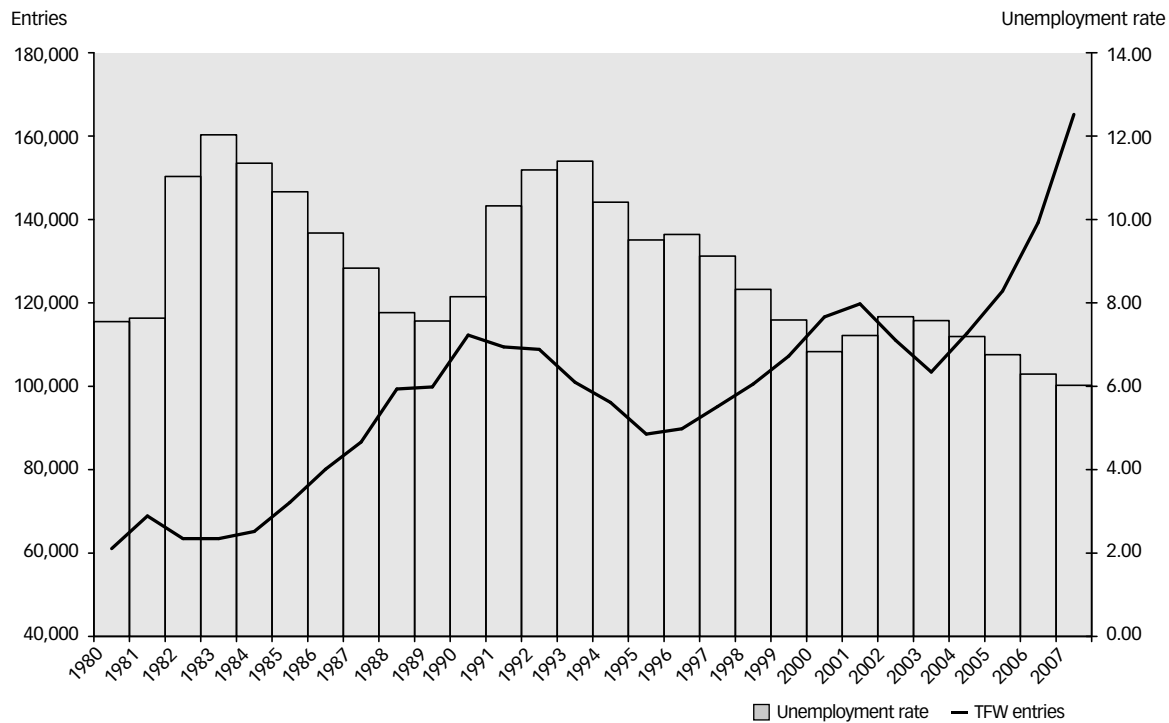
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Table 1
Provincial unemployment distribution

	Unemployment					Ranking			
	1983	1989	1993	2006		1983	1989	1993	2006
British Columbia	13.9	9.1	9.7	4.8	British Columbia	7	5	4	4
Alberta	11.0	7.2	9.6	3.4	Alberta	4	2	3	1
Saskatchewan	7.7	7.4	8.3	4.7	Saskatchewan	1	3	1	3
Manitoba	9.5	7.5	9.3	4.3	Manitoba	2	4	2	2
Ontario	10.5	5.0	7.2	4.9	Ontario	3	1	5	5
Quebec	14.2	9.6	13.2	8.0	Quebec	8	6	7	7
New Brunswick	15.0	12.1	12.6	7.6	New Brunswick	9	8	6	8
Nova Scotia	13.5	9.9	14.3	8.0	Nova Scotia	6	7	8	6
PEI	12.4	13.8	16.9	10.4	PEI	5	9	9	9
Newfoundland	18.2	15.6	20.1	13.6	Newfoundland	10	10	10	10
Correlation	0.778	0.972							
Canada	12.0	7.6	11.4	6.3					

Source: Statistics Canada, 2008.

Figure 1
Inflow of temporary foreign workers in Canada (1980-2007)



Sources: Entry data provided by CIC; Statistics Canada (2008).

does increasing access to TFWs, even in the presence of demand-management by the government, as is the case in Canada, have medium- to long-term adverse effects on unemployment?

Temporary foreign workers and regional unemployment

Standard economic theory provides a pretty straightforward description of labour market adjustment. In the absence of access to TFWs, employers who experience regional shortages and have difficulty recruiting needed

workers must increase the wages they offer. Higher wages would then attract new participants to the labour force as well as workers from regions not experiencing the same economic growth. Hence, the rising gap between wages would create internal migration flows by people living in lower wage areas or labour force participation changes. This labour reallocation mechanism would eliminate regional differences in labour market conditions, and in a perfectly frictionless world, all regions would exhibit identical unemployment rates. Therefore, giving employers access to TFWs by attempting to recruit workers in a tight

Table 2
Average annual provincial in- and out-migration

	In-migration		Out-migration		Total movement	
	1983-1989	1993-2006	1983-1989	1993-2006	1983-1989	1993-2006
British Columbia	57,152	54,754	42,689	48,900	99,841	103,654
Alberta	51,094	70,960	65,599	49,108	116,693	120,068
Saskatchewan	15,908	15,699	24,726	20,713	40,634	36,412
Manitoba	17,242	13,769	21,806	18,258	39,047	32,027
Ontario	92,084	66,968	66,110	66,671	158,194	133,640
Quebec	26,349	21,933	34,512	31,477	60,861	53,409
New Brunswick	12,814	10,944	13,622	12,464	26,436	23,407
Nova Scotia	18,068	15,660	17,689	17,345	35,757	33,005
PEI	3,055	2,610	2,930	2,571	5,985	5,181
Newfoundland	8,045	7,824	11,436	12,868	19,482	20,692
Canada	307,355	285,995	-	-	614,711	571,989

Source: Statistics Canada (2008).

local labour market can eliminate or decrease the need for relative changes in wages and the subsequent reallocation of labour across regions. Consequently, it can contribute to persistent differences in regional unemployment rates. So, in Canada, where unemployment rates vary considerably, two questions arise: Are these regional unemployment differences persistent (i.e., is labour force adjustment not occurring)? And, if they are, can the persistence in divergences be attributed to the growing use of TFWs in some provinces?

Table 1 presents the distributions of provincial unemployment rates for the two most recent periods of economic growth: 1983-1989 and 1993-2006.³ It also provides the ranking of provinces in terms of unemployment performance for each year. The second period of growth is much longer than the first (13 as opposed to 6 years), thereby potentially allowing for more convergence. Yet in 2006, as in 1989, there were still vast differences in unemployment rates across provinces. In 1989, when the overall unemployment rate was 7.6%, Ontario was registering the lowest rate at 5.0%, and Newfoundland, the highest at 15.6%. In 2006, when the overall unemployment rate was 6.3%, Alberta's unemployment rate was 4.8% while Newfoundland's was the highest at 13.6%. Hence, in 2006, both extremes were lower, but there clearly remained important discrepancies. Furthermore, provincial unemployment rates, and thus persistence in the distribution of rates, seem to have increased over time. At the end of the first expansion period, the ranking of the provinces had changed, yet only drastically in the case of PEI. Newfoundland was the sole province that held its spot. At the end of the second expansion period, six provinces (Manitoba, B.C., Ontario, Quebec, PEI and Newfoundland) were ranked the same as at the outset and the other four hardly moved across ranks. There has been little change in the distribution of regional unemployment during the latest 13-year expansion period, and there appears to be a much stronger inertia in the distribution of provincial unemployment in recent times.⁴ Having established that there has been little convergence in provincial unemployment rates since the mid-1990s, it must now be shown that the

expansion of the TFWP played a role in maintaining these differences.

Temporary foreign workers and inter-regional mobility

The crucial component in the adjustment mechanism for unemployment convergence is inter-provincial mobility following unequal wage variations. Thus, it is expected that higher persistence in unemployment dispersion in the 1990s than in the 1980s will correspond to lower mobility. There is indeed ample statistical and analytical evidence that inter-provincial migration has decreased over time in Canada. Starting with the statistics, Table 2 shows the average annual in- and out-migration as well as total migration during these two expansionary periods (1983-1989 and 1993-2006) for provinces and for Canada. Total movements across Canada have decreased by about 7% between the two periods. Only one province experienced an increase in in-migration (Alberta) while two others (BC and Newfoundland) experienced a significant increase in out-migration. Overall, the movement of people has increased only in three provinces, namely British Columbia, Alberta and Newfoundland. Analytically, both Grenier (2008) and Cousineau and Vaillancourt (2001) argue that mobility of working age populations across Canada has decreased between the mid-1970s and the mid-1990s. There are many reasons other than the availability of TFWs that might explain persistent discrepancies in regional unemployment. Among the most important are differences in institutions and policies that affect mobility. There are particularly compelling argument in explaining international differences in unemployment rates as labour market policies can greatly vary from one country to another. These policies, however, tend to be much more homogenous within countries. Yet, in Canada, province-specific public policies have been shown to contribute to unemployment differences across provinces. Among them, minimum wage legislations, income taxes, provincial per capita spending and regional provisions in the employment insurance legislation are particularly relevant (Day and Winer 2001). There are also other factors that explain why mobility has decreased.

Inter-provincial migration may respond to fundamental changes, such as rural/urban structure or long-term differences in unemployment (Coulombe 2006) or to relocation costs such as age, education, and language (Dickie and Gerking 1998). Increasing persistence in unemployment rates differences across Canada would appear to have resulted from the increasing cost of moving, which results in the fact that employers find it difficult to find workers when regional shocks hit. Under these circumstances, calling upon TFWs to fill labour gaps may appear to be the ideal short-term solution. However, not allowing wages to rise locally through the scarcity mechanism is likely to decrease further incentives to move from other regions. If TFWs further contribute to limiting inter-provincial mobility, the program may have unintended long-term consequences for the employment of Canadian workers. One way of alleviating this adverse effect is to make TFWs as costly to access as workers from another region.

The relative cost of hiring TFWs

The Canadian TFWP, and especially since its extension in 2002, contains a number of provisions that are consistent with demand management, and those provisions are more numerous for unskilled than skilled workers. They consist of costs to be borne by employers and the labour market test requirements. Direct monetary costs specify that employers must pay for return travel to the home country and health coverage until provincial coverage applies. The labour market test is linked to compulsory recruiting procedures that employers must follow, as “HRSDC and CIC will expect you [the employer] to show efforts to hire unemployed Canadians” (HRSDC 2008) in order to obtain a Labour Market Opinion (LMO), which opens the door to hiring a foreign worker. HRSDC also requires that “wages and working conditions are comparable to those offered to Canadians working in the occupation” (HRSDC 2008). Overall, the demand-management related costs create a gap between the employers’ costs of hiring a TFW and a local worker: hiring of a temporary foreign worker was more expensive than hiring a local worker.

However, in early 2007, the introduction of the accelerated LMO Pilot Project substantially decreased employers’ recruiting costs. Since then, a list of priority occupations is regularly established for each province and the compulsory advertising requirements have been reduced from two or three weeks to one week (OECD 2008: Annex Table II.A.1.2.). Also, the length of work contracts was extended from one to two years, which basically halves recruiting and travel costs. As a consequence, the differential in hiring

costs between a local and a temporary foreign worker has decreased. If this differential is not great enough to induce employers to raise wages to attract resident workers from other regions, and if it also decreased, it is possible that the TFWP would contribute to maintaining important regional differences in unemployment. 1991 to 2007 in Gross and Schmitt (2009) show that hiring costs of TFWs are indeed related to persistence in regional unemployment when other factors that slow down inter-provincial migration are taken into account. It is worth noting that one major component of these costs is travel cost borne by employers who must pay for the return trip from the source country. Between 1993 and 2007, the real cost of one mile travelled by passengers decreased by about 30%, lowering quite substantially the cost of hiring a TFW. In

addition, employers further saved on monetary costs with the introduction of accelerated hiring procedures. Since the mid-1990s, persistence in the distribution of regional unemployment differences is likely to have been enhanced by more intensive use of TFWs as the costs related to their hiring was decreasing. Intuitively, if TFWs were more expensive to hire, employers might be more inclined to consider raising wages to attract workers already residing in Canada. For this mechanism to work, the “penalty” for hiring TFWs must clearly be relatively hefty.

Canada has designed a temporary foreign worker policy that involves managing the demand for labour. Such an approach is meant to ensure that employers’ excess demands for labour are satisfied while the employment of resident workers is protected. It is clear that employers will always “need” TFWs if they are cheaper than resident workers and some steps have been taken to ensure that there is no displacement of resident workers. However, there is evidence that the policy is inefficient at avoiding the potential displacement of Canadian

workers from other regions or provinces. So, even though Canadian policy has established provisions through the LMO to avoid the employment of TFWs below the minimum standards to limit adverse effects on the local market, it seems that they are ineffectual in preventing a permanent rise in regional unemployment differences.

As long as TFWs remain substantially cheaper to hire than resident workers – because wages and hiring costs are substantially lower than what they would be for resident workers from other provinces – employers will hire TFWs. In the absence of quotas like in Canada, the inflow of TFWs depends solely on securing an LMO based on the evaluation of the state of the local market by government officials, a very difficult exercise by all accounts (Abella 2006). An alternative policy tool would be to make the cost

Unemployment in Canada has indeed fallen since the mid-1990s, dropping from 11.4% to 6.0% between 1993 and 2007. Concurrently, the number of annual entries of temporary foreign workers rose substantially, reaching 165,200 in 2007, a 40% increase since 1993.

of hiring a TFW more in line with the cost of attracting out-of-province workers. In demand-management, one innovative way of maintaining the cost of hiring TFWs higher is Singapore' foreign worker levy: "The foreign worker levy is a pricing control mechanism designed to regulate the demand of foreign workers in Singapore" (Singapore Government 2009). The levy is industry-specific and rises with the employers' dependency level on TFWs. For example, in services, the monthly levy for unskilled workers is S\$240 per foreign worker when they make up less than 30% of the labour force; S\$280, between 30% and 40%; and, S\$450, between 40% and 50%.³ Whether such a policy would be efficient in Canada remains to be evaluated, as it is likely to be most efficient in markets where the levy cannot be passed on to TFWs, such as sectors with unions. Nevertheless it seems that the growing gap between the cost of TFWs and the cost of resident workers under the seemingly strict LMO conditions (i.e., same wage paid) have contributed to maintaining high unemployment in some regions by slowing down inter-provincial migration.

Conclusion

Demand-management provisions have several purposes, one of which is to make sure there is no substitution between resident and TFWs by maintaining similar hiring costs. To be efficient, hiring conditions for TFWs must go beyond paying the going wage. Inter-provincial migration depends on the cost of moving, and in Canada, with its existing diversity of provincial labour market institutions, these costs may be quite high. Hence, lowering additional hiring costs for TFWs when local shortages occur can have unintended long-term adverse effects on the regional distribution of unemployment.

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Notes

¹ Average unemployment in the 1960s was 1.8% in Austria, 2.2% in Belgium, 1.5% in France, 0.8% in Germany and 0.1% in Switzerland (OECD 2008).

² Even though the magnitude of the flows is much smaller, it is interesting to note that the expansion of the TFWP to unskilled workers occurred in Canada at a time when the overall unemployment rate was 3 to 4 times higher than that of European countries in the 1960s.

³ Unemployment rate for both sexes, people aged 15 years and over. Annual values are averages of monthly observation (Statistics Canada 2008).

⁴ Another illustration is given by the simple correlation among provincial rates, which were 0.778 between 1983 and 1989, and 0.972 between 1993 and 2007.

⁵ The benchmarks for the foreign labour force and the size of the levy vary across industries and time (Singapore Government 2009). One Singapore dollar was equivalent to C\$0.82 on January 14, 2009.

THE ECONOMIC EFFECTS OF THE SAWP ON THE CANADIAN AGRICULTURAL INDUSTRY

ABSTRACT

This article combines the Survey of Labour and Income Dynamics, the Fruit and Vegetable Survey and the Phillip Martin (2006) micro-data to determine the economic effects of the Canadian Seasonal Agricultural Workers Program (SAWP) on the host country's agricultural industry. A linear OLS equation model, estimated for two periods (1993-2004 and 2007-2004), was created based on the Borjas, Freeman and Katz model (1996). Results show that no negative impacts arise from the presence of the agricultural guest workers participating in the SAWP. Unfortunately there is no evidence of a positive outcome of the program. Hence, further analysis introducing new elements is highly recommended.

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After World War II, the needs of population around the world increased almost exponentially. This situation led to a rise in the demand for perishable goods, which forced the Canadian agricultural industry to shift from a system of family enterprises to one of big industrial farms. Other economical sectors were also growing fast and required more labour force than before (Basok 2002). This new economic development meant that most industries began competing for workers. The agricultural industry was seen as being the least attractive, as other sectors offered labour conditions and wages that appeared more advantageous to most workers.¹ Hence, the agricultural labour market started experiencing workforce shortages (Hébert 2003) that resulted in most farmers urging the Canadian government to legalize the hiring of temporary migrant labour under a guest worker system. This, it was hoped, would allow them to face workforce shortages in a regulated way and without suffering the social and economic consequences brought by illegal immigration (*Ibid.* 2002, Dialogue European Policy Centre 2003).

As a result of this mobilization (*Ibid.* 2002), the Government of Canada signed a cooperation agreement with the Government of Jamaica in 1996, and with the Government of Mexico in 1974; in doing so, it created the Canadian Seasonal Agricultural Workers Program (SAWP) (Barron 2000, Basok 2002, Brem 2006). This program, managed by designated ministries from the participating countries, regulates the annual entry of foreign-born workers who work on Canadian fields for an average period of six months and who are considered legal migrants, with the same rights and obligations as Canadian citizens (Mantha 2006). The temporary migrants are selected under criteria that should ensure that they will not stay in the country once the contractual relationship is over (OECD 1998).

Under these conditions, the assumption holds that they are perfect substitutes to a local workforce, considering that they are working at jobs left by local workers (Card 1997), even if they come on a temporary basis. Therefore, is it fair to think that guest workers, like permanent immigrants, may negatively impact the local labour market dynamics (Friedberg and Hunt 1995)?

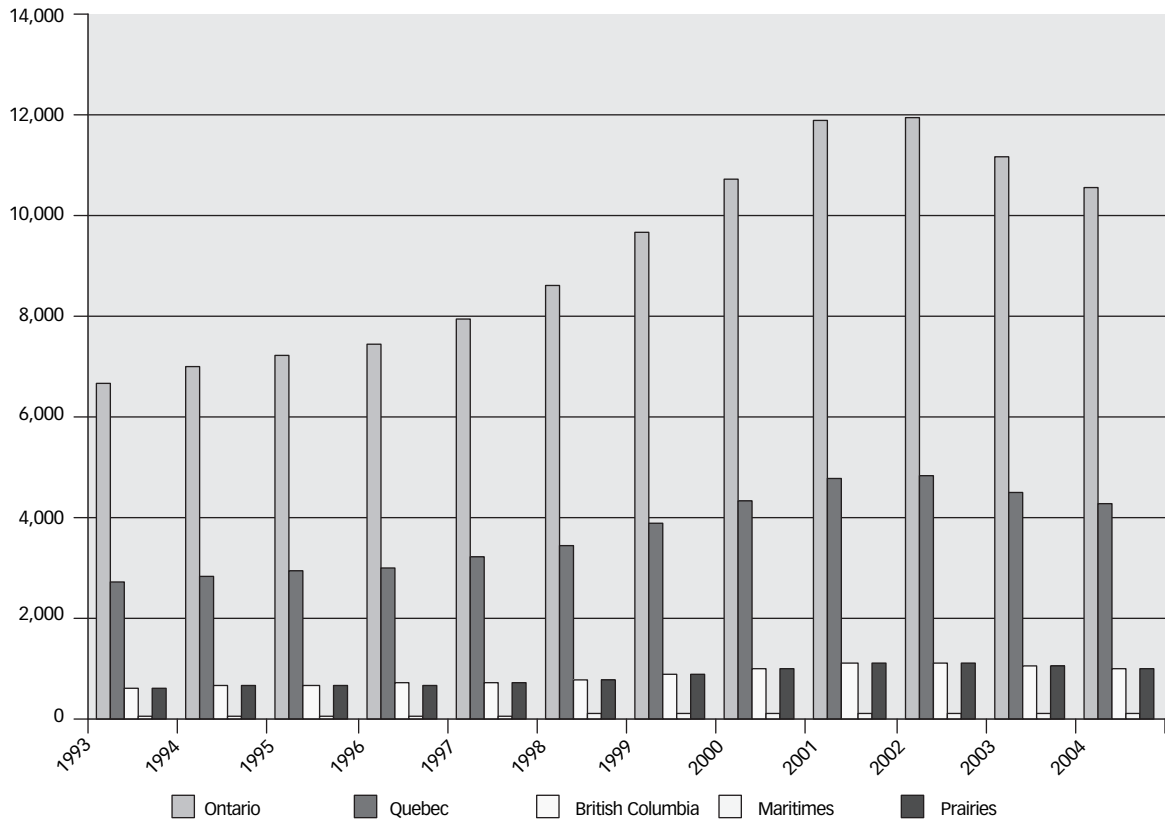
The main goal of this analysis is to explore this question, using two linear OLS equation models with cross-sectional data from three different sources and for two periods: 1993- 2004 and 1997-2004. The data sources are the Survey of Labour and Income Dynamics (SLID), the Fruit and Vegetable Survey, both conducted by Statistics Canada, and data found in Martin (2006).

Two hypotheses are put forward. First: temporary migrants do not have an adverse effect on the wages of local workers or the composite hourly wages. Second: temporary migrants actually improve some agricultural variables such as the harvested area of the specific sector that is analyzed.

Related literature

An elementary labour demand model seems to be one of the models most commonly used to analyze immigration effects on wages, assuming “that they are determined by the equalization of the

Figure 1
Seasonal foreign workers distribution by province and by year, 1993-2004



Sources: Entry data provided by CIC; Statistics Canada (2008).

labour supply and demand” (Cahuc and Fougère 2002). Borjas (1994) analyzes a closed economy model in an attempt to estimate the impact of migrant workers’ entry on native workers’ wages. He found that every 10% increase in the number of new migrant workers results in a wage decrease of about 0.2%. His evidence also implies a weak correlation between wages and immigration for all the native workers groups, regardless of skin colour, skills or gender. Borjas posits that if native workers and firms are able to adapt to the migrant flux (i.e., by moving to other regions), the correlation between wages and immigration disappears.

Card and DiNardo (2000) analyze the impact of immigration on wages by observing internal migration caused by migrant entries. In their article they tried to probe two particular situations. First, if the migrant influx is proportional to skills distribution, native’s wages will lie constant even if there is a rise in immigration. Second, if the migrants’ presence causes a rise in the relative proportion of a specific skill group, wages will decrease.

According to their results, there is no evidence supporting the argument that natives’ emigration is caused by migrant influx. In fact, influxes may cause a slight rise in the low-skilled workers’ proportion or relative growth. Based on this evidence, the authors conclude that the impact of low-skilled migration on the labour market is alleviated by adjustments such as changes in industry structures (*Idem.*: 15).

Borjas, Freeman and Katz (1992) separated the economically active population into skills groups to show the effects of immigration on the labour market. They found that immigration “accounted for one quarter of the 10% decline on the relative earnings of high school dropouts from 1980 to 1988.” Similarly, Borjas and Ramey (1993) found that a 1% rise in immigration decreased high school dropout wages relative to workers with a college degree by about 0.6 %.

In this same line, Card’s 2005 analysis explains the effects of immigration on the low-skilled relative to labour supply. His results show a small negative impact of low-skilled workers on low-skilled native employment.

Finally, Ottaviano and Peri’s (2006) general equilibrium approach is an interesting way of analyzing the impact of migrants on host economies, as it focuses not only on the effects of migrants on native wages, but also on migrants’ interactions with the physical capital. They introduce the imperfect substitutability concept and observe a reduction of the migrant distribution adverse effect. In fact, their estimations show a long-term positive impact of migrant presence on the wages of natives who have at least a high school diploma. In fact, workers most affected are previous migrants (*Idem.*: 27).

Methodology and data

Following Borjas, Freeman and Katz (1996), an econometric model was built using the following two

equations, where Y_{itk} is the analyzed variable for the person I, during the period t, in the geographical zone k.

Equation 1

$$Y_{itk} = \alpha + \beta (\text{sexe})_{ikt} + \delta (\text{yrxfte11})_{ikt} + \gamma (\text{age})_{ikt} + \theta (\text{moinsec})_{ikt} + \phi (\text{seconter})_{ikt} + \lambda [t1-t12]_{12xnkt} + \varphi (\text{prov})_{4xn\ ikt} + e_{itk} \quad (1)$$

Equation 2

$$Y_{itk} = \alpha + \beta (\text{sexe})_{ikt} + \delta (\text{yrxfte11})_{ikt} + \gamma (\text{age})_{ikt} + \theta (\text{moinsec})_{ikt} + \phi (\text{seconter})_{ikt} + \lambda [t1-t12]_{12xnkt} + \varphi (\text{prov})_{4xn\ ikt} + \psi (\text{guest})_{kt} + e_{it} \quad (2)$$

This variable assumes four values: real wage (revre), its logarithm (logrev), the composite hourly wage of all paid jobs (thpc) and its logarithm (lnthpc). Sex is the vector with dummy variables for gender; Yrxfte11 is the vector with the number of years of full-time work experience; Age is the vector holding the individuals' ages; Moinsec contains the individuals with less than a high school degree; and Seconter contains those with at least a high school degree. T1-T12 is the dummy values matrix indicating the model trends during the analysis period. Finally, Prov is the Canada regions dummy values matrix. Thus:

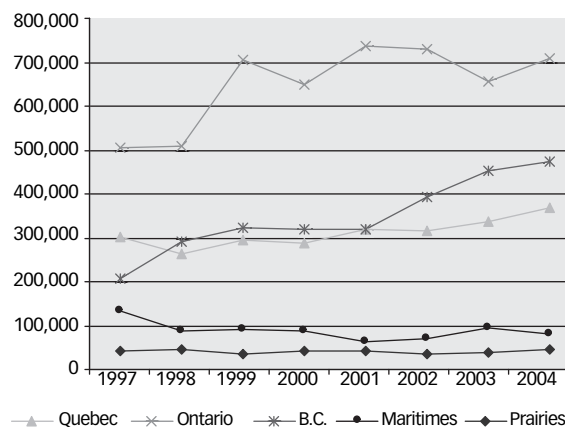
$\text{prov}_{5xn} = [\text{provmar}\ \text{provqc}\ \text{provon}\ \text{provcb}\ \text{provouest}]$, and $t1-t12_{12xn} = [t1\ t2\ t3\ t4\ t5\ t6\ t7\ t8\ t9\ t10\ t11\ t12]$

The prov vector includes: provmar, which contains the Maritimes provinces values; provqc represents the province of Quebec; provon is the province of Ontario; provouest contains all Prairies Provinces and British Columbia is provcb.

The difference between both equations is the value *guest*² that was added to the second equation to represent the total number of guest workers labouring in the analyzed agricultural sector. The purpose of building a cross-sectional, two-equation model is the comparison of two situations:

- Sector behaviour without guest workers;
- Changes in sector behaviour once guest workers are introduced to the analysis.

Figure 2
Evolution of total value by region in millions dollars, 1997-2004



Source: Fruit and Vegetable Survey.

From this comparison, the hypothesis of the impact of temporary migrants on the dependant values mentioned above is tested by using the OLS method for two different periods. The first is the 1993-2004 period, and the second, the 1997-2004 period.³ The latter helps to validate the first results. Our model becomes:

Equation 3

$$Y_{itk} = \alpha + \beta (\text{sexe})_{ikt} + \delta (\text{yrxfte11})_{ikt} + \gamma (\text{age})_{ikt} + \theta (\text{moinsec})_{ikt} + \phi (\text{seconter})_{ikt} + \lambda [t1-t8]_{12xnkt} + \varphi (\text{prov})_{4xn\ ikt} + \sigma (\text{varagricole})_{kt} + e_{itk}$$

Equation 4

$$Y_{itk} = \alpha + \beta (\text{sexe})_{ikt} + \delta (\text{yrxfte11})_{ikt} + \gamma (\text{age})_{ikt} + \theta (\text{moinsec})_{ikt} + \phi (\text{seconter})_{ikt} + \lambda [t1-t8]_{12xnkt} + \varphi (\text{prov})_{4xn\ ikt} + \sigma (\text{varagricole})_{kt} + \psi (\text{guest})_{kt} + e_{itk}$$

All of the variables in this model keep the values from the original model and the new variable, varagricole, can adopt three different numerical forms: *vf*, which is the Total value received expressed in millions of dollars; *pc*, which is the quantity marketed expressed in tons; and *sr*, which is the harvested area expressed in hectares.

As we wish to determine the impact of SAWP participants on the economy of the agricultural sector that is under analysis, we propose a "semi" production function, where Z is the harvested area that becomes dependant in the following model:

Table 1
Effects of the variable *guest* on wages, composite hourly wage and natural logarithm of composite hourly wages for both models

Model	Model 1 1993-2004	Model 2 1997-2004
Revre	0.1663 (0.710)	1.9581 (0.009) ^a
Thpc	0.0000293 (0.834)	0.0008 (0.000) ^a
lnthpc	0.00000075 (0.583)	0.0001 (0.000) ^a

^a Significant at 1%.

Table 2
Database sample variables from the SLID

Variables (1993-2004)	Number of observations weighted (1993-2004)	Mean (standard deviation)
Employers	391 363	
Workers	371 850	
Gender	371 850	
• Female	170 995	
• Male	200 855	
Age	371 850	32,49 (13,65)
Years of work experience	371 850	10,19 (11,62)
Total number of weeks worked	371 850	38,94 (16,25)
Education	370 853	High school graduates
Real wages	371 850	11 398 (10 566)
Composite hourly wages	342 907	8,16 (3,05)

Source: Weighted microdata from the SLID.

Equation 4

$$Z_t = \alpha + \beta (\text{ouvriers})_{kt} + \psi (\text{guest})_{kt} + \lambda [t1-t8]_{12 \times n} + \varphi (\text{prov})_{4 \times n \times kt} + \epsilon_{tk}$$

The values of guest, t1-t8 and prov are now measured by region and by year. The vector ouvriers contains the total number of agricultural native workers, while ϵ_{tk} is an error component.

The analysis is performed using a database constructed from three sources: SLID, the Fruit and Vegetable Survey (both conducted by Statistics Canada) and information found in Martin (2006) concerning the total number of SAWP participants. In some cases, the names of SLID variables needed to be recoded to adapt them to the model. However the original values were not modified. For the Fruit and Vegetable Survey, the values were summarized in order to analyze them as aggregated quantities. Regarding the total number of SAWP participants, the annual influx was multiplied for the provincial proportions provided by the Consulate of Mexico in Montréal⁴⁵ in order to obtain the influx by year and by province.

Results

Once all the dependent variables of the first model (1993-2004) were estimated, no evidence of negative effects caused by the presence of guest workers participating in the SAWP was found. The only finding was a very weak negative impact on the wages logarithm. In fact, age, experience and education became more significant p-values⁶ for some variables. When the results were compared with and without the variable *guest*, no significant difference between them was found.

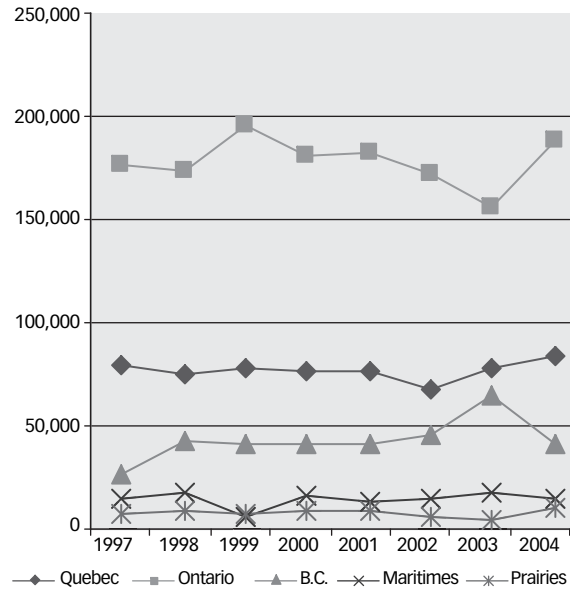
To test the validity of these results, the next step was to follow Card's lead, as set out in "Is the New Immigration Really so Bad?" (2005). In this article, he supposes that the absence of local labour market effects from immigration on host economies has to do with some "unobserved relative demand shocks, which enter the relative wage and employment equations" (p. 12). Card suggests instrumenting the relative supply "with information on historical migration patterns" (*Idem.*). In this article's case, some elements representing the adjustment of the labour demand side were introduced.

Hence, the model takes the form that is described in the last section (Equations 3 and 4). As agricultural information from 1993 to 1996 was not available, the sample size was reduced. The regressions were then calculated by introducing a new independent variable containing information on the labour demand.

The results do not show much difference compared to the first model (see Table 1). However, in some regressions the coefficients for *guest* and for some agricultural production indicators yield significant values. These findings agree with Card's conclusions, that adjusting models can put the coefficients "in the right direction, but does not change the basic conclusion that immigrant impacts are small" (*Idem.*).

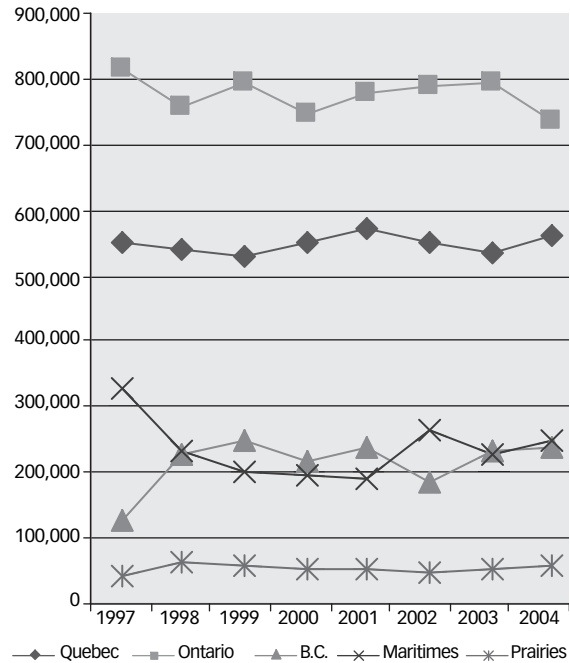
Another plausible explanation would be the immigration process itself. As previously mentioned, the present analysis focuses on temporary immigration impacts on the local labour market by working with information from a well regulated program. Every single

Figure 3
Evolution of quantity marketed by region in tons, 1997-2004



Source: Fruit and Vegetable Survey.

Figure 4
Evolution of area by region in hectares, 1997-2004



Source: Fruit and Vegetable Survey.

temporary worker entering the country under the SAWP has been chosen in accordance with a set of conditions that ensure that they will remain temporary, and therefore will not impact the local economy. Even if in the short term, they can affect the labour market dynamic, in the long term, these effects disappear or stay weak.

Unfortunately, when the positive effects of migrant workers were estimated with Equation 5 described above, no

consistent result was found. From one indicator to another, many variations were observed.

This instability in the results may have been caused by the low number of observations from the main dataset (SLID).⁷

Conclusion

In light of these results, it is fair to say that immigration does not negatively affect the local workers' wages, which is similar to other research findings.

The model proposed by Borjas, Freeman and Katz (1996) was adjusted to estimate the impact of temporary migrants participating in the SAWP program. The OLS for two periods, from 1993 to 2004 and from 1997 to 2004, were used. In the first period no significant values of the coefficients measuring the impact of SAWP participants on the dependant variables were found. The second period helped to test the validity of the first results, and in some cases it was found that the coefficients of interest were significant, though weak.

Considering that the impact of a well-designed labour market public program on local workers has been analyzed in this article, it is possible that the absence of negative effects come from the fact that the program is designed to benefit both natives and migrants. Even if in the short run, temporary migrants may have negative effects on the labour market; eventually, however, these effects disappear or become weak.

Nevertheless, from an economic standpoint, these results show that SAWP participants do not cause a decrease in native wages. In fact, they could be beneficial to the local economy as they are alleviating labour market shortages in the agricultural sector, and allowing the Canadian agricultural industry to remain competitive in the global economy.

The present article and its findings did not yield sufficient results. The pursuit of this analysis is therefore highly recommended through the introduction of additional elements that could help in establishing the positive effects of temporary migrants on the host economy.

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Notes

- ¹ Groupe Agéco agroalimentaire et économie (Comité sectoriel de main-d'œuvre de la production agricole), *La rareté de main-d'œuvre agricole : une analyse économique*, 2002.
- ² This variable is measured by year and by province.
- ³ Because of data unavailability from 1993 to 1996, the period is limited to 1997 to 2004.
- ⁴ Because of the unavailability of data from the Caribbean countries, the proportions by province by year were taken only from the Mexican case and the other countries were assumed to present a similar pattern.
- ⁵ At the end of the article, we show tables containing some of the values from our database.
- ⁶ All results are shown in the appendix for all periods and all models.
- ⁷ SLID non-public data is allowed to become public if there are at least five observations before weighting. Some weak variations in the non-weighted observation number may induce important changes after weighting from year to year. Furthermore, the SLID is an overlap panel and some researchers as Pierre Lefebvre and Philip Merrigan have noticed a bit of "noise" in the labour market variables once a new panel arrives.

Table 3

Regression results for wages and composite hourly rate, 1993 to 2004 (P values in parentheses)

	revre	revre	logrev	logrev	thpc	thpc	lnthpc	lnthpc
sexe	3,956.24 (0.000) ^c	3,944.49 (0.000) ^c	0.2804 (0.000) ^c	0.2829 (0.000) ^c	0.4206 (0.059) ^a	0.4198 (0.059) ^a	0.0556 (0.019) ^b	0.0554 (0.019) ^b
yrxfte11	257.7325 (0.000) ^c	258.3453 (0.000) ^c	0.0303 (0.000) ^c	0.0302 (0.000) ^c	0.0497 (0.000) ^c	0.0499 (0.000) ^c	0.0056 (0.000) ^c	0.0056 (0.000) ^c
age1828	1,708.35 (0.040) ^b	1,709.55 (0.040) ^b	0.2965 (0.001) ^c	0.2962 (0.001) ^c	0.3107 0.22	0.311 0.221	0.0477 (0.098) ^a	0.0478 (0.098) ^a
age2939	3,957.17 (0.000) ^c	3,963.28 (0.000) ^c	0.3742 (0.000) ^c	0.3729 (0.000) ^c	0.8833 (0.020) ^b	0.8844 (0.020) ^b	0.105 (0.004) ^c	0.1053 (0.003) ^c
moïnsec	-4,753.70 (0.000) ^c	-4,740.52 (0.000) ^c	-0.4223 (0.000) ^c	-0.425 (0.000) ^c	-2.9162 (0.000) ^c	-1.3288 (0.000) ^c	-0.128 (0.000) ^c	-0.127 (0.000) ^c
seconter	-4,069.67 (0.000) ^c	-4,056.86 (0.000) ^c	-0.3543 (0.000) ^c	-0.357 (0.000) ^c	-1.5737 (0.000) ^c	-1.5708 (0.000) ^c	-0.1533 (0.000) ^c	-0.1526 (0.000) ^c
t2	-1,785.83 0.357	-1,863.41 0.345	-0.2608 0.102	-0.2445 0.124	0.8197 0.248	0.8074 0.247	0.1109 0.115	0.1077 0.127
t3	-844.7225 0.676	-914.2586 0.655	-0.1141 0.518	-0.0994 0.569	0.1876 0.775	0.1762 0.784	0.0601 0.362	0.0572 0.386
t4	-2,096.01 0.294	-2,211.03 0.283	-0.3027 (0.056) ^a	-0.2784 (0.075) ^a	-0.1159 0.863	-0.1331 0.837	0.012 0.849	0.0076 0.905
t5	-1,213.24 0.558	-1,322.16 0.531	-0.1328 0.36	-0.1099 0.45	-0.2551 0.692	-0.2732 0.66	-0.0031 0.96	-0.0078 0.901
t6	78.1341 0.97	-75.4294 0.972	-0.0469 0.742	-0.0145 0.919	0.1676 0.807	0.1409 0.83	0.0233 0.719	0.0163 0.801
t7	-96.2217 0.961	-329.7641 0.876	-0.1004 0.511	-0.0513 0.742	0.217 0.747	0.1765 0.781	0.0433 0.503	0.0328 0.619
t8	-1,556.11 0.405	-1,851.00 0.372	-0.1512 0.29	-0.0891 0.554	-0.0943 0.878	-0.1455 0.801	0.016 0.794	0.0027 0.966
t9	-356.2445 0.853	-753.8702 0.731	-0.011 0.938	0.0727 0.637	-0.3107 0.622	-0.38 0.524	-0.0068 0.914	-0.0247 0.714
t10	2,329.85 0.291	1,908.00 0.431	0.1423 0.397	0.2311 0.207	0.2339 0.732	0.1599 0.805	0.0484 0.472	0.0292 0.687
t11	490.0072 0.806	138.2672 0.951	-0.0283 0.856	0.0458 0.783	-0.0919 0.902	-0.1526 0.841	-0.0126 0.854	-0.0284 0.701
t12	363.107 0.875	-15.4242 0.995	-0.2413 0.2	-0.1616 0.381	0.0627 0.922	-0.0031 0.996	0.0366 0.566	0.0195 0.77
provmar	-3,991.67 (0.000) ^c	-3,912.44 (0.000) ^c	-0.25 (0.001) ^c	-0.2667 (0.000) ^c	-1.0574 (0.001) ^c	-1.0435 (0.001) ^c	-0.0705 (0.022) ^b	-0.0669 (0.030) ^b
provqc	-4,674.54 (0.000) ^c	-5,210.48 (0.005) ^c	-0.3238 (0.002) ^c	-0.211 0.227	-0.5358 0.162	-0.6311 0.285	-0.0082 0.835	-0.0329 0.593
provon	846.0958 0.386	-580.205 0.886	0.1434 (0.065) ^a	0.4436 0.22	0.0754 0.815	-0.1759 0.895	0.0688 (0.026) ^b	0.0037 0.977
provcb	-3,321.82 (0.003) ^c	-3,379.70 (0.003) ^c	-0.2203 (0.082) ^a	-0.2082 0.106	-0.1677 0.668	-0.1773 0.656	0.0535 0.179	0.051 0.211
guest			0.1663 0.71	-0.000035 0.386			0.0000293 0.834	0.0000075 0.583
Constant	10,137.23 (0.000) ^c	10,264.73 (0.000) ^c	8.7673 (0.000) ^c	8.7405 (0.000) ^c	8.4301 (0.000) ^c	8.4495 (0.000) ^c	1.9853 (0.000) ^c	1.9903 (0.000) ^a
Observations	1230	1230	1230	1230	1226	1226	1226	1226

^a Significant at 10%.^b Significant at 5%.^c Significant at 1%.

Table 4

Regression for the wages and composite hourly wage with the total value variable, 1997 to 2004
(Pvalues in parentheses)

	revre	revre	logrev	logrev	thpc	thpc	lnthpc	lnthpc
sexe	4,440.9123 (0.000) ^c	4,364.6448 (0.000) ^c	0.3225 (0.000) ^c	0.3203 (0.000) ^c	0.8692 (0.000) ^c	0.8377 (0.000) ^c	0.1061 (0.000) ^c	0.1031 (0.000) ^c
yrxfte11	245.0495 (0.000) ^c	248.7302 (0.000) ^c	0.0282 (0.000) ^c	0.0283 (0.000) ^c	0.0438 (0.000) ^c	0.0455 (0.000) ^c	0.0052 (0.000) ^c	0.0054 (0.000) ^c
age1828	2,561.9583 (0.010) ^b	2,494.0346 (0.012) ^b	0.3794 (0.000) ^c	0.3775 (0.000) ^c	0.2879 (0.288)	0.2485 (0.359)	0.0565 (0.061) ^a	0.0528 (0.080) ^a
age2939	4,680.1190 (0.000) ^c	4,686.4769 (0.000) ^c	0.4650 (0.000) ^c	0.4652 (0.000) ^c	0.9797 (0.013) ^b	0.9634 (0.010) ^b	0.1350 (0.000) ^c	0.1335 (0.000) ^c
moinsec	-5,368.1294 (0.000) ^c	-5,256.6650 (0.000) ^c	-0.3930 (0.000) ^c	-0.3899 (0.000) ^c	-1.7477 (0.000) ^c	-1.6746 (0.000) ^c	-0.172 (0.000) ^c	-0.1652 (0.000) ^c
seconter	-4,361.9115 (0.001) ^c	-4,435.0416 (0.000) ^c	-0.3961 (0.000) ^c	-0.3981 (0.000) ^c	-1.7578 (0.000) ^c	-1.7627 (0.000) ^c	-0.1764 (0.000) ^c	-0.1768 (0.000) ^c
t2	1,473.2175 (0.375)	1,066.0504 (0.521)	0.1050 (0.390)	0.0934 (0.446)	0.4521 (0.310)	0.2426 (0.576)	0.0320 (0.474)	0.0123 (0.777)
t3	1,433.5513 (0.421)	1,417.4601 (0.419)	0.0657 (0.648)	0.0653 (0.649)	0.3794 (0.440)	0.3582 (0.449)	0.0398 (0.428)	0.0378 (0.436)
t4	-85.2113 (0.957)	-1,301.6913 (0.431)	0.0119 (0.926)	-0.0226 (0.865)	0.0750 (0.842)	-0.4807 (0.224)	0.0146 (0.727)	-0.0377 (0.391)
t5	1,402.3674 (0.408)	-486.4155 (0.797)	0.1737 (0.174)	0.1201 (0.388)	-0.1145 (0.784)	-0.9673 (0.035) ^b	-0.0031 (0.947)	-0.0833 (0.104)
t6	4,106.3356 (0.041) ^b	2,150.9829 (0.313)	0.3272 (0.040) ^b	0.2717 (0.107)	0.4225 (0.383)	-0.4631 (0.388)	0.0528 (0.314)	-0.0305 (0.597)
t7	2,075.9588 (0.263)	589.8848 (0.761)	0.1367 (0.363)	0.0945 (0.538)	0.1102 (0.858)	-0.5342 (0.393)	-0.0094 (0.862)	-0.0700 (0.214)
t8	2,056.6379 (0.396)	815.4073 (0.739)	-0.0669 (0.709)	-0.1022 (0.559)	0.2259 (0.635)	-0.3520 (0.452)	0.0379 (0.469)	-0.0165 (0.747)
provmar	-4,609.3561 (0.000) ^c	-3,206.8737 (0.005) ^c	-0.3259 (0.000) ^c	-0.2860 (0.007) ^c	-1.4167 (0.001) ^c	-0.8335 (0.044) ^b	-0.1004 (0.011) ^b	-0.0456 (0.270)
provqc	-4,206.0006 (0.130)	-7,380.9560 (0.022) ^b	-0.2839 (0.192)	-0.3740 (0.115)	-0.9946 (0.226)	-2.3837 (0.004) ^c	-0.0312 (0.713)	-0.1619
provon	2,301.6328 (0.689)	-6,984.0448 (0.345)	0.2413 (0.569)	-0.0224 (0.966)	-0.938 (0.500)	-5.0186 (0.002) ^c	-0.0039 (0.979)	-0.3877 (0.025) ^b
provcb	-2,931.2567 (0.332)	633.0111 (0.829)	-0.1684 (0.497)	-0.0672 (0.823)	-0.6157 (0.441)	0.9042 (0.254)	0.0264 (0.748)	0.1694 (0.041) ^b
vf	-0.0037 (0.684)	-0.0191 (0.044) ^b	-0.0000 (0.649)	-0.0000 (0.453)	0.0000 (0.643)	-0.0000 (0.039) ^b	0.0000 (0.738)	-0.0000 (0.067) ^a
guest			1.9581 (0.009) ^c	0.0001 (0.494)			0.0008 (0.000) ^c	0.0001 (0.000) ^c
Constant	9,076.0792 (0.000) ^c	9,940.0840 (0.000) ^c	8.6332 (0.000) ^c	8.6577 (0.000) ^c	8.4512 (0.000) ^c	8.8464 (0.000) ^c	1.9869 (0.000) ^c	2.0240 (0.000) ^c
Observations	926	926	926	926	930	930	930	930
R-carré	0.195	0.202	0.246	0.247	0.143	0.162	0.158	0.172

^a Significant at 10%.

^b Significant at 5%.

^c Significant at 1%.

SELLING VISAS TO THE HIGHEST BIDDERS?*

“We can make our immigration policy more equitable...if we accept a market solution. To wit: sell immigration visas to the highest bidders.” (Simon 1999: 322)

Temporary migration levels have recently risen in Canada and have led to a sharp debate over a shift from admitting predominately permanent immigrants to accepting a near equal number of temporary admissions. In fact, Wayne Peppard, President of the B.C. Building Trades Council, has stated, “We’re not against skilled workers coming to start a new life, but if temporary foreign workers become the norm, rather than investing in training here, then that can cause problems. They are no solution in the long run.” (Atkinson 2006)

Canada has many temporary entry gateways, including the popular NAFTA TN visa, a seasonal agricultural worker program, a foreign caregiver visa and a program that allows foreign students and their spouses to work while in Canada. Finally, Canada’s membership in various trade agreements (NAFTA, General Agreement on Trade and Services) has given rise to growing demands by some member countries to expand immigration visa provisions and permit temporary admission into Canada. In sum, the current state of temporary migration legislation in Canada is complex in terms of tenure, eligibility and, most importantly, labour market standards, which must be satisfied before admission (Sas and DeVoretz 2008). At one extreme, the temporary admission of foreign agricultural workers to Canada is permitted only after strict labour market wage and working conditions are met (see Pascoe and Davis 2000). At the other extreme, Canada issues TN visas without any labour market tests or caps on total numbers. What is missing from this temporary migrant entry policy is a coherent labour market analysis of the effect of these current temporary migration programs on resident Canadian workers. The focus of this article is to provide an alternative policy for admitting temporary foreign workers to Canada.

Impact of immigrants on the labour market

I have argued elsewhere (DeVoretz 1999a, 1999b) that the goal of maximizing economic gain for resident Canadians without reducing the welfare of the bottom fifth of Canadian society is one possible evaluation framework for a migration program. If we accept this objective, it is still necessary to provide analytical principles to ensure that temporary migration to Canada will realize an optimal outcome.

The positive or negative impacts of immigrants on the labour market and on the treasury are often cited in the literature as welfare assessment criteria designed to ensure a positive outcome (DeVoretz 2006). However, the direction of these labour market and financial effects are unknown *a priori*. In fact, the exact public financial outcome – gain or drain – depends on the temporary workers’ stage in the life cycle, as well as on the eligibility requirements of social programs (DeVoretz and Pivnenko 2004). Moreover, depending on whether temporary immigrants are complementary or substitute inputs, they may create jobs or take them from Canadian workers.

Given the uncertainty of the outcome derived from the arrival of temporary migrants in the labour market and on the treasury, the Canadian government invokes the criterion that a net economic benefit must appear to justify temporary migration. The net economic benefit criterion in this context implies that each temporary migration program must provide, on balance, a positive benefit to all resident Canadians. Thus, given that in many cases Canadian workers experience a loss and employers experience a gain, it is clear that we require a methodology allowing us to assess workers’ losses in order to calculate net benefits before we can invoke the net economic benefit criterion.

In addition, many countries historically started with modest temporary admission programs where worker “shortages” in the policy-makers’ minds resulted in their version of the net economic benefit criterion being met. However, all these programs were later abandoned after they had grown in size and their labour market implications became evident. Canada’s current Temporary Worker Programs forskilled and unskilled labour are small and well-served from a management viewpoint (Greenhill and Aceytuno 2000, Pascoe and Davis 2000). However, efficient management alone should not be the sole objective of these programs. Several broader economic goals must also be met, including the protection of Canadian resident workers. Most recent Canadian temporary migration legislation contains some provisions designed to protect resident Canadian workers, since a labour market test is required for

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all but NAFTA-based TN visa issuance. How much protection is required? Should temporary migration to Canada be halted if wages or unemployment rates fall or rise by 5% or 10%, or some other preordained number? Moreover, how do the potentially affected Canadian resident workers express their agreement to any set of preordained unemployment or wage guidelines on an individual basis? In sum, these questions must be answered before we can provide a clear calculation of the net economic benefit derived from any temporary worker program.

An auction model for temporary worker admissions

Current Canadian Memoranda of Understanding (MOU) with temporary migrant-sending countries reflect the myopic managerial model that has served Canada well in the past, with its limited non-permanent foreign-worker programs. These MOU reflect the apparent policy imperative of setting standards and conditions in the relevant labour markets to satisfy the net economic benefit criterion. For example, minimum wages, housing standards, food provisions and maximum deductions for employer-provided benefits are all incorporated in the MOU. These conditions in turn are presumed to be operational equivalents to isolating Canadian residents from wage or (un)employment effects, and mitigating any impact on the publicly-financed health and social benefit systems.

The market offers an alternative to the current Canadian management model for temporary migration. An auction market should be legally created to ascertain the value of Canadian jobs offered to foreigners. In turn, equilibrium in the auction market would allow us to determine the optimal number of temporary migration visas allocated. Under the current temporary admission system, three of the four agents in the temporary worker market (i.e., the Canadian employer, a broker and the foreign worker) clearly gain. However, if a foreign worker were to replace a Canadian worker, a loss would be incurred in terms of lower wages or unemployment.

Under the proposed Canadian auction scheme, all previously-employed or currently unemployed skilled and unskilled Canadian workers are issued a voucher by Revenue Canada as part of their tax statement. This voucher entitles workers to auction off the job(s) that they held in the preceding year to an approved list of foreign workers. The implicit trade-off facing Canadian workers is the yearly value of their current job, or leisure, plus benefits and job security, compared to the gain from a prospective new job, plus the voucher auction price; thus, Canadian workers can offer their voucher on an Internet site to see if their “reservation auction price” is met. The voucher sold entitles the foreign worker to apply for the

Canadian job but does not guarantee hiring; the voucher only allows prospective temporary migrants the right to apply for a temporary position in Canada, for which the employer has the ultimate right of hire.

The actual conditions of the auction, legal statements, any bonding or vetting are under the control of Revenue Canada or Citizenship and Immigration Canada. A small processing fee is charged to workers who place an offer. Any potential broker or foreign worker also pays a fee to Revenue Canada to use the service. These fees are adjusted to ensure that the auction board is cost-free to Canadian taxpayers, so that enforcement costs are absorbed by auction-market participants.¹ Furthermore, full information on terms and conditions of successful auctions would be supplied daily on the auction board. This information would consist of the terms of successful auction transactions – i.e., the number of hours sold, where, when, in what industry and at what price. Thus, Canadian workers can re-offer the voucher obtained from Revenue Canada daily if there has been no previous taker. They can also remove the offer from the Website and continue to work if the voucher price offered for their job falls below their reservation price. Given that the voucher is only valid for a maximum of 365 days annually, the value of the voucher will fluctuate over a calendar year if the offered job is seasonal and as the number of calendar days declines.

The possible rise or fall in the voucher price might give rise to a futures market in vouchers. For example, with a futures market, brokers might buy vouchers from Canadian workers early in the calendar year, and assume all the downside risk as they search the world for temporary foreign workers whom employers would hire at a wage below the auction price. If unsuccessful, the brokers would pay more to the Canadian jobholders for a one-year job than they would obtain on the auction market. Finally, in both the spot and futures market, the

optimal solution on the Web-based auction market would arise daily as both forward and spot contracts would appear under various job matches.

Conclusion

The auction market suggested in this article simultaneously provides a daily temporary wage rate offer for a specific job by prospective temporary foreign workers and provides the yearly number of temporary visas offered (from 0% to 100%) for all jobs previously held by Canadians. It also determines the location (i.e., in Canada or offshore) of the unskilled-intensive, Canadian-owned firm that depends on temporary foreign workers.² All these transactions arise without the necessity of a government official trying to calculate an ephemeral net economic benefit value for a particular number of temporary workers entering a particular occupation.

Canada's membership in various trade agreements (NAFTA, General Agreement on Trade and Services) has given rise to growing demands by some member countries to expand immigration visa provisions and permit temporary admission into Canada.

Moreover, in a world of free exchange, all agents gain, as Simon (1998) predicted. Employers reap a surplus by paying a lower wage, foreigners earn a higher wage than their opportunity cost, and Canadian workers receive partially-compensated leisure time in addition to any employment benefits they accrue. The imperative of welfare improvement, therefore, is met.

Many administrative issues – types of visas, conversion rights, and employment authorizations – not discussed here are analyzed in DeVoretz (2008). In addition, as Simon notes, some ethical questions surrounding an auction system that potentially rewards the rich should be resolved. This article clearly shows that the auction model does not generate such thorny issues since Canadian workers are the ones who gain in the process.

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Notes

- * This paper is an adaptation of DeVoretz (2008).
- ¹ The fee is set to provide an actuarially sound insurance fund to compensate for any malfeasance arising from fraud on the auction board, and to ensure validation of both job offers and the *bona fides* of the foreign bidder.
- ² If a firm cannot hire temporary workers and no Canadian resident will work for the firm, the firm will relocate. This could easily happen with elder care nursing homes relocating in Mexico, for example.

Immigration and Diversity in Francophone Minority Communities

Special Issue of *Canadian Issues / Thèmes canadiens*

The Metropolis Project and the Association of Canadian Studies have produced a special issue of the magazine *Canadian Issues* on immigration and diversity in Francophone minority communities. The issue (spring 2008) presents a range of perspectives on Francophone immigration and diversity in Canada. For the last ten years or so, Francophone minority communities have considered these issues to be critical to their economic, social and cultural development. The edition features an introduction by Chedly Belkhodja of the Université de Moncton and over 30 articles by knowledgeable policy-makers, researchers and non-governmental organizations.

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TEMPORARY WORKER PROGRAMS: U.S. AND GLOBAL EXPERIENCES

ABSTRACT

This article provides an overview of Temporary Worker Programs (TWPs) in different countries, and the implications of the variety of programs on Canadian labour migration policies. In traditional immigration countries such as the U.S., TWPs were the great exception, with unions and immigrant advocates generally opposed to “contract labour” programs, whether they admitted immigrants who were bound to their first employer for several years, or non-immigrants, required to leave after a certain number of months or years. By contrast, European guest worker programs admitted probationary immigrants, meaning that rights to reunify families, to change employers and to remain in the country depended on having an employer request the necessary work permits for residence card renewals. Most guest workers returned to their countries of origin as expected, but some settled, giving European countries significant minority populations. Canada’s TWPs mirror American as well as European programs. As in the U.S., certain TWPs admit temporary workers to fill temporary jobs, others admit temporary workers to fill year-round jobs, and some give temporary workers an inside track to immigrant status, while others do not. As in Europe, Canada has probationary immigrant programs, such as the Live-in Caregiver Program, similar to European guest worker programs.

Guest worker programs aim to add workers to the labour force on a temporary basis, but avoid adding settled residents to the population; the “guest” adjective suggests that migrants will leave after several months or years of work, and that almost all guest workers will be in the labour force. The universal experience with guest workers is often summarized as: “There is nothing more permanent than temporary workers,” meaning that guest worker programs tend to become larger and to last longer than anticipated, and that at least some migrants settle in the country in which they work with their families.

The “failure” of guest worker programs to rotate workers in and out of the country is predictable because of the incentives of employers and migrants, which can be summarized as distortion and dependence. In most industrial countries, temporary workers represent less than 5% of workers, meaning that most employers recruit and employ local workers (natives and settled immigrants). Guest workers are thus the exception, and to ensure that employers do not prefer foreign workers to local workers, most countries require employers to try to recruit local workers before granting them permission to employ foreign workers.

Distortion refers to the fact that over time, employers can become disconnected from local workers and labour markets. Employers familiar with a migrant network that recruits and often trains migrant workers can devote themselves to other issues. Over time, guest worker-dominated labour markets can become increasingly disconnected from other labour markets, such as industries protected from trade get distorted, so that threats to reduce access to “migrant workers” can become threats to staying in business.

Dependence refers to the fact that the lives of some migrants, families and regions are improved by foreign jobs and remittances, so that reduced access to higher wage foreign jobs could reduce incomes and living standards. Sending workers abroad and receiving remittances tends to reduce poverty, but whether it speeds up stay-at-home development depends on whether the “3 R’s” of recruitment, remittances and returns create virtuous circles between migration and development, as in the case of Indian IT workers, where migration helped to create a new industry, or whether they lead to vicious circles, as with African health care worker migration, where lack of health care can slow economic development.

Many developing countries and international organizations that want to accelerate development urge industrial countries to open their doors wider to migrant workers in order to maintain their labour forces in the face of population ageing while speeding development in labour-sending countries. However, there is no automatic link between migration and development. In some cases, emigration in one period was followed by immigration the next, as with southern European countries and Korea. In other areas, from West-Central Mexico to the rural Philippines, there have been decades of labour migration, with no end in sight.

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The channels by which migration affects development are often summarized as the 3 R's of recruitment, remittances and returns. *Recruitment* deals with who migrates. Are migrants persons who would have been unemployed or underemployed at home or key employees of business and government whose departure leads to layoffs and reduced services? The impact of *remittances* depends on their volume as well as on how they are spent and invested by recipients. *Returns* ask whether returning migrants are spark plugs for development or persons who rest and retire in their areas of origin.

Several lessons flow from the 3 R analysis of migration and development:

- There is no automatic link between migration and development, meaning that policy in both sending and receiving countries can make a difference in whether some labour migration begets more or less in the future;
- Receiving-country employers are usually the key actors in TWP's, and their incentive to hire the "best" workers may clash with those of sending-country governments wanting to send the unemployed abroad;
- Migrants from rural areas are not likely to produce stay-at-home development via the 3 R's. Instead, their remittance investments in education and health for their children may speed rural-urban migration or facilitate more international migration.

The Global Forum on Migration and Development, *inter alia*, explores mechanisms through which labour-sending and receiving countries can cooperate to design TWPs that satisfy the needs of employers and migrants as well as the wider goals of governments in each country.

TWPs in the United States

The United States has three major guest-worker programs, for professionals (H-1B), low-skilled farm workers (H-2A) and low-skilled non-farm workers (H-2B). Other visas, ranging from E visa treaty traders to F visa students to J visa exchange visitors and NAFTA TN visas, allow foreigners to work in the U.S. Many of the non-H programs limit the authority of the U.S. Department of Labor (DOL) over admissions and employment. For example, the U.S. Department of State administers the J visa program, which is comparable to working holiday-maker programs.

Employer-friendly changes in 1986 and 1990 anticipated growth in H-worker admissions,² and the caps were set at about twice the admissions levels in order to accommodate this growth. For example, H-1B admissions were less than 30,000 a year in the early 1990s, and the cap

was set at 65,000 a year. However, the major policy issue in the H-1B and H-2B programs over the past decade has been the cap: available visas for the year are often delivered soon after they become available. Employers want caps raised with no change in admission rules and worker protections, while unions refuse to allow an increase in the cap unless there are more restrictive rules and worker protections.

H-1B

The H-1B program was created at a time of feared mismatches in the U.S. labour market.³ The assumption in the late 1980s was that the U.S. had sufficient workers, but too few who were prepared to fill jobs in fast-growing new industries such as high-tech. The H-1B program, the reasoning went, would provide employers with easy access to foreign workers and bridge gaps in the labour market until sufficient U.S. science and engineering (S&E) workers could be trained.

The compromise embodied in the H-1B program gave U.S. employers easy access to foreign professionals, but capped the number of visas at 65,000 a year. In a departure from usual practice, H-1B visa holders were allowed to state that they wanted to seek immigrant visas while in the U.S. as temporary workers (declaring an intention to settle in the country normally leads to denial of a non-immigrant visa).

For the first eight years, the cap of 65,000 was not reached. However, by 1998 a combination of economic and IT booms, middlemen who specialized in H-1B employment, and spreading knowledge of the program led employers to request more than 65,000 visas. The cap was raised, eventually to 195,000 a year, plus 20,000 H-1B visas a year for foreigners with Masters and Ph.D. degrees from American universities, plus an unlimited number of H-1B visas for non-profit

universities and research institutions.

The cap on H-1B visas reverted to 65,000 in 2004 amid disagreements over whether additional worker protections were necessary. Employers may apply a maximum of six months before visas become available, and there are typically three times more (approved) employer requests than visas submitted on the first day visas become available, so that "winners" of H-1B visas are selected by lottery. However, this situation persists because of disagreement over whether additional worker protections are needed – unions have the clout to block a simple increase in the cap.

The H-1B program by design provides easy access to foreign workers and is administered to achieve this goal.³ There are only computer checks of employer-filed Labour Condition Applications that spell out wages and working conditions, and over 99% of these applications are approved within minutes after being submitted via the Internet. Enforcement procedures are limited by law – DOL's Wage and Hour Division can generally investigate an

Receiving-country employers are usually the key actors in TWP's, and their incentive to hire the "best" workers may clash with those of sending-country governments wanting to send the unemployed abroad.

employer of H-1B workers only after receiving a complaint from an “aggrieved party.” There are few complaints (173 in FY05), in part because H-1B foreign workers want to be sponsored by their U.S. employers for immigrant visas and also because the law gives U.S. workers few grounds for filing complaints.

DOL classifies S&E jobs into four levels, from Level 1 (entry level with close supervision required) to Level 4 (fully competent). Employers classify over half of H-1B jobs as Level 1, and the wage offered by employers to fill these jobs tend to be at the low end of the range, such as \$50,000 rather than the median \$65,000 in computer-related occupations in FY06.⁶ The prevailing wage is tied to the job, not to the worker who fills it, which means that if the job requires a B.A., an H-1B worker with an M.Sc. degree who applies to fill it can be paid a B.A.-level wage.

Third, there are many more U.S. residents with STEM (scientific, technological, engineering, and mathematical) educations (about 15 million) than are currently employed in STEM occupations (about 5 million). A higher share of foreign-born than U.S.-born STEM graduates begin careers in STEM jobs,⁷ but both U.S.-born and foreign-born STEM graduates drift out of them. Foreign-born STEM graduates stay in STEM occupations for at least a decade, which may reflect H-1B visas and labour certification, while the out-migration of the U.S.-born with STEM educations from STEM occupations is faster. A decade after graduation, only a third of those with STEM educations are still in STEM jobs.

The H-1B program is controversial, and seems to inspire extreme assertions. Bill Gates of Microsoft said: “The terrible shortfall in the visa supply for highly skilled scientists and engineers stems from visa policies that have not been updated in more than 15 years. We live in a different economy now, and it makes no sense to tell well-trained, highly skilled individuals – many of whom are educated at our top universities – that they are not welcome here.” (*Daily Labour Report* 2007) Intel Chairman Craig Barrett urged the U.S. government “to staple a green card” or immigrant visa to the diplomas of foreign students who graduate from American universities with science and engineering degrees (Barrett 2006).

Critics, on the other hand, describe H-1B visa holders “high-tech *braceros*,” suggesting a link to a now-discredited program that admitted almost five million Mexicans to work on U.S. farms from the 1940s to the 1960s (Branigin 1998). Others emphasize that most of the foreigners admitted with H-1B visas are not the world’s best and brightest, at least as suggested by the complexity of the jobs they fill and the salaries they are paid.

H-2A

The H-2A program allows U.S. farm employers to request certification from DOL to employ an unlimited number of foreign workers if: 1) farm workers are not available; and 2) the presence of the foreign workers will not “adversely affect” farm workers.⁹ The H-2A program is rife with controversy in the U.S., and appears to have limited impacts on development in migrant-sending areas.

The administration of the H-2A program at one level is straightforward, and at another invites controversy and may foster unauthorized migration. In recent years, DOL certified over 6,500 farm employers to fill almost 60,000 jobs with H-2A farm workers. However, despite the fact that 98% of the employer applications are approved, more than half of the workers employed on U.S. farms are believed to be unauthorized. Farmers complain that they do not use the H-2A program to obtain workers because it is too bureaucratic and exposes them to lawsuits by worker advocates.

One reason the H-2A program generates employer complaints is because unauthorized workers are available. U.S. farm employers must have their need for H-2A foreign workers certified, which means they must try to recruit U.S. workers under DOL supervision, and U.S. workers get priority to fill vacant jobs. Farm employers are routinely accused of rejecting qualified U.S. workers in order to hire the H-2A workers (already recruited, in most cases). Worker advocates accuse farm employers of preferring the “captive” H-2A workers to legal and unauthorized workers who have freedom in the U.S. labour market (an H-2A worker who loses his job must leave the country).

A review of employer applications to fill 10,134 jobs with H-2A workers in FY96 found that 530 U.S. workers were referred to fill these jobs, equivalent to 5.2%, and 252 or 2.5% of these workers were hired.¹⁰ Farm employers look at this 5% referral and

2.5% hire rate and conclude that U.S. workers are generally not available, while worker advocates point to unemployment rates of 15% to 20% in areas with H-2A workers and conclude that qualified U.S. workers are discouraged or rejected. The result is often litigation.

There are about 60,000 H-2A visa holders and 1 million unauthorized workers in the U.S. hired farm work force, which includes 2.5 million workers at some point during a typical year. A legislative proposal pending since 2000 would legalize many of these unauthorized workers, which is the goal of worker advocates, and make employer-friendly changes to the H-2A program.

The *Agricultural Job Opportunity, Benefits and Security Act* (S340/H371), also called AgJOBS, would allow up to 1.5 million unauthorized farm workers in the U.S. to “earn” a

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than real.

legal immigrant status by continuing to do farm work over the next five years. In addition, the H-2A program would change in three major ways. First, attestation would replace certification, effectively shifting control of the border gate to employers who make assertions (assurances) to DOL that they have vacant jobs, are paying at least the minimum or prevailing wage, and will comply with other H-2A requirements.

Under AgJOBS, DOL would review employer assurances for “completeness and obvious inaccuracies” and approve them within seven days of receipt, allowing foreign H-2A workers to arrive and go to work. Enforcement would respond to complaints of violations of H-2A regulations, such as guaranteeing work for at least three-quarters of the work period specified by the employer, hiring local workers who apply for jobs until half of the work period stated by the employer is completed, and reimbursing 100% of transportation costs of workers who complete the job. Under AgJOBS, there must be mandatory mediation to try to resolve disputes before suits are filed.

Second, farm employers could pay a housing allowance of \$1 to \$2 an hour, depending on local costs to rent two-bedroom units that house four workers, rather than provide free housing, as is currently required. The state’s Governor would have to certify that there is sufficient rental housing for the guest workers in the area where they will be employed in order for H-2A employers to pay a housing allowance rather than provide free housing.

Third, the Adverse Effect Wage Rate (AEWR) – the minimum wage that must be paid to legal guest workers – would be frozen at its 2002 levels and studied. In California, the AEWR would be reduced from \$9.20 an hour to \$8.02 an hour, and there would be similar 5% to 10% reductions in other states. If Congress fails to enact a new AEWR within three years, AgJOBS would allow the AEWR to be adjusted on the basis of the three-year change in the Consumer Price Index. Eventually, the AEWR would rise with the Index, up to a maximum 4% a year.

U.S. TWP issues

There are three major TWP issues being debated in the U.S. First, should workers admitted under TWPs be considered temporary visitors or probationary immigrants? Unions, churches and migrant advocates generally oppose guest worker programs, whether they admit temporary visitors or probationary immigrants, saying that in each case the migrants are captives of their employers, making their work place rights more theoretical than real.

The H-1B program admits probationary immigrants; U.S. employers can “sponsor” H-1B workers for immigrant visas during the six-years they can be in the U.S. The H-2A and H-2B programs, by contrast, do not offer an explicit adjustment path to immigrant status. The 2006 Senate

immigration reform bill would have created a new guest worker program with a path to immigrant status. The 2007 Senate bill, however, dropped this adjustment-to-immigrant path.

The second issue involves the border gate. Under the attestation procedure of the H-1B program, employers effectively control the border gate, since their assurances made via the Internet open the door to foreign workers (if visas are available). The H-2A and H-2B programs, by contrast, require certification, which involves employer recruitment supervised by local employment service agencies. Even though more than 95% of H-2A and H-2B employer requests are approved, the certification process alerts unions and advocates, who sometimes refer U.S. workers and sue employers for not hiring them.

The third issue involves links between TWPs. The U.S. has at least 15 temporary visitor visas that allow foreigners to work, ranging from F-1 student to TN NAFTA. The non-H programs that have attracted the most attention recently are F-1 student, J-1 exchange

visitor, and L-1 intra-company transfer programs. Each is far larger than the H programs and there are generally no labour market tests or recruitment of U.S. worker requirements. Employers say these programs are working well; unions say they are riddled with problems.

Other countries’ TWPs

The International Labour Organization estimates that there are about 100 million foreign-born workers around the world, and according to the Organization for Economic Co-operation and Development (OECD), over 200 bilateral labour agreements were in effect in 2000. Labour migration is usually set in motion by employer decisions in labour-receiving countries, with the blessing or toleration

of their government.

It is often hard to reach a consensus in labour-receiving countries on the three fundamental TWP questions – how many, from where, and in what status should migrant workers be employed? Each question is subject to debate, and answering them becomes more difficult as unemployment rates rise.

European guest worker policy in the 21st century differs from TWP policy of the 1960s. The first difference reflects the shift from one program to many programs. During the 1960s, most European countries had just one guest worker program, with uniform rules for employers and bilateral agreements that were very similar across labour-sending countries. Today, most European countries have separate programs for agriculture, construction and services, and bilateral agreements can be quite different from one country to another.

Second, a combination of shrinking employment services, increasingly flexible labour markets, and

In July 2006, Spain and Morocco agreed on a four-year plan to tackle illegal immigration. The keystone is a repatriation agreement that allows apprehended foreigners to be returned to Morocco.

deregulation have put more power to determine admissions in the hands of employers. During the 1960s, employment services were generally deemed by all parties to be the most credible source of data on whether foreign workers were needed or not. Today, employers' assertions about labour shortages are often accepted with little or no input from employment services, in part because governments lack data and analyses that might prove otherwise.

Third, guest worker programs in the 21st century have more goals than did those of the 1960s, when their primary purpose was to fill vacant jobs. Today, TWP goals include inducing cooperation to deal with illegal migration, as with Italian and Spanish migration partnership agreements, promoting development in labour-sending countries, as with French co-development schemes, and protecting upstream and downstream jobs in the labour-receiving country, as when foreign farm workers reserve processing jobs for local workers. It has been very hard to determine which priority is most important when they clash.

German seasonal TWPs

The German seasonal workers program operates under memoranda of understanding signed by the German Labour Ministry and labour ministries of source countries. It admits migrants for up to 90 days if local workers are not available to fill vacant jobs in agriculture, forestry, the hotel and catering sector, fruit and vegetable processing and sawmills. Employers may not hire (rotating groups of) seasonal workers for more than seven months a year unless they grow fruit, vegetables, wine, hops or tobacco – these crops are allowed more months of foreign worker employment.

In recent years, 80% to 90% of all seasonal workers admitted were from Poland, and a similar share worked in agriculture. German employers request seasonal foreign workers and submit to local labour offices proposed contracts that spell out wages and working conditions as well as provisions for employer-provided housing, meals and travel arrangements, if these are provided. The German Employment Service tests the local labour market to ensure that local workers are not available at the prevailing wage, and employers pay an administrative fee of 60 euros per guest worker, and they must not deduct this fee from migrants' wages.

German employers may request foreign workers by name, and they do for about 90% of those admitted in recent years. Migrants arrive with copies of the bilingual contracts that were checked by Employment Services in both Germany and their country of origin, and both employers and migrants make payroll tax contributions that amount to approximately 35% of wages.¹¹

The number of Poles working as temporary workers on German farms fell by 15% to 270,000 in 2006, amid reports that many were seeking higher wages in the United Kingdom. British farm jobs pay about 8 euros an hour, compared to 4 to 6 euros an hour in Germany. Polish and other A8 workers in the U.K. can change employers and stay longer than the 90 days they are allowed to remain in Germany.

The German government says that the employment of Polish seasonal workers is decreasing as farmers hire more unemployed workers in Germany. The German Labour

Department in 2006 insisted that 10% of asparagus harvesters in 2006 were German, and subsidized their farm wages. Farmers say that Poles are much more efficient harvesters, harvesting an average 400 kg or 880 pounds a day – twice as much as German workers.

Spanish seasonal TWPs

Spain has about 4.5 million migrants, who account for 10% of its 45 million residents, and most have arrived since 2000. This immigrant influx has been largely welcomed as an economic benefit, since most of the migrants arrived while Spain was undergoing an extraordinary economic boom.

Most migrants join the Spanish labour force, making employment growth in Spain the fastest in the Euro zone. Rapid changes in the Spanish economy and society created a demand for migrants in occupations ranging from domestic helper to farm worker. Spanish migration policy, especially until 2005, was tolerant of illegal migrants, regularizing their status in periodic legalizations.

In 1985, roughly 16% of Spanish workers were employed in agriculture, which contributed 4% to the country's gross domestic product (GDP) and accounted for 10% of Spanish exports. By 2005, only 5% of Spanish workers were employed in agriculture and its GDP contribution dropped to 3%, but the sector accounted for 12% of Spanish exports.

The growth of export-oriented agriculture in the south of Spain was a magnet for migrants. There were relatively few immigrant workers in Spanish agriculture when Spain joined the European Union in 1986, but in 2007 over 150,000 foreign workers were enrolled in the agricultural portion of the Spanish social security system, and 40,000 to 80,000 a year arrive with temporary visas (78,000 arrived in 2006).

Spanish agriculture evolved from a family affair to a more factories-in-the-fields system through significant capital investments that resulted in fewer but larger farms producing for export markets, especially in the provinces of Almería and Murcia, where we find greenhouse production of fruits and vegetables, and in Huelva, which produces strawberries. Seasons have lengthened, increasing dependence on hired workers.

Hired farm workers are spreading from southern Spain to other provinces, and from strawberries and greenhouses to other commodities. Agriculture is an important port of entry for migrants into Spain. The farm worker share of those legalized in 2001 and 2005 (13 to 15%), was twice the share of those in the Spanish social security system, 7% to 8%. Most of the migrants employed in Spanish agriculture are from Morocco, Ecuador and Romania.

Seasonal farm workers are recruited by employers in their countries of origin under the terms of bilateral agreements that provide recruited workers with nine-month contracts and social security benefits.¹² In order to return legally to Spain the following year, they must report to a Spanish consulate in their country of origin when their contract ends. If they work in Spain seasonally for four years, they can earn an immigrant visa. Despite these terms, approximately 40% of seasonal migrants do not report to Spanish consulates in their countries of origin as required.

Spain has temporary worker programs with Colombia, Morocco, Ecuador and Romania that include co-development elements designed to promote economic development in the migrants' country of origin and reinforce worker circularity or rotation. There is also significant local influence on the design of Spanish guest worker programs, funded by the European Union, the Government of Spain and local funds.

For example, Cartaya, a Spanish city of 18,000 in the strawberry-growing province of Huelva, received 1.2 million euros to develop a circular migration temporary worker program with Morocco. Initially, fewer than half of the Moroccans left at the end of the season as required, which prompted a change in the rules, and now only mothers under 40 with children may participate. About 5,500 of the 26,000 Moroccan mothers who applied were selected for the March-June 2007 strawberry picking season, and those who departed at the end of the season were guaranteed the right to return to Spain in 2008. Employers provide the women with housing and Cartaya's mayor, Juan Antonio Millán, calls the Moroccan temporary worker program "ethical migration," to distinguish it from the more widespread irregular migration in the area (Gerson 2007).

In July 2006, Spain and Morocco agreed on a four-year plan to tackle illegal immigration. The keystone is a repatriation agreement that allows apprehended foreigners to be returned to Morocco. Morocco has deployed 11,000 security personnel to monitor its coasts, which has resulted in a 40% drop in the number of illegal migrants reaching Spain in 2006. Frontex, the European Union agency for external border security, is helping Spain, Italy and Malta to monitor their borders.

Many strawberry growers prefer to recruit in Eastern Europe, especially in Poland and Romania. As these countries grow richer, leaving fewer workers willing to travel to Spain to fill seasonal jobs, there is tension between government efforts to encourage recruitment in Morocco and Senegal and grower desires to recruit in Moldova and Ukraine. Spain and Senegal signed a bilateral recruitment agreement in 2007 that offers work visas in exchange for cooperation to reduce illegal migration. The Spanish government authorized 2,700 work visas for Senegalese as of February 2008, including 740 for Cartaya strawberry growers. The growers requested women, but the Senegalese offered only men. Senegal wants to reserve many of the Spanish work visas for Senegalese expelled from Spain, but the Spanish government does not want to reward those expelled with legal work permits.

Migrants in Spain remit an estimated 5 billion euros a year, with 75% going to their countries of origin via *locutorios*, shops that offer cheap calls and money transfers. The *locutorios* charge 5% to 7% of the amount transferred, compared to 10% by banks, and have an 85% market share. In 2007, in a bid to obtain more business from migrants, Banco Santander began to offer remittance transfers at no charge. Some Spanish stores are allowing migrants to select merchandise and have it delivered in Ecuador or Peru.

Lessons for Canada

There are three major lessons of U.S. and other country experience with TWPs for Canada. They deal with distortion and dependence, program administration and thinking about guest workers.

Perhaps the most important issue is dealing with distortion and dependence. Employers who become accustomed to hiring migrant workers, and whose recruitment and training systems evolve to employ them (such as planting crops in areas with few workers), may make investment decisions that assume migrants will continue to be available. It should come as no surprise that these investors resist policy changes that would reduce their access to migrant workers or increase their labour costs. Similarly, ensuring that migrants' areas of origin develop, so that legal guest workers are not followed by unauthorized migration, can help to head off the "nothing-more-permanent-than-temporary-workers syndrome."

One option for dealing with distortion and dependence is to include economic steering mechanisms in the programs, not just rules that can be hard to enforce. One option would be to use the payroll taxes collected on the earnings of migrants, or levies as in Singapore and Malaysia, to reduce dependence on migrants over time and to accelerate development in migrant areas of origin.

Second, Canada involves employers in the design and administration of many of its guest worker programs, and gives administering agencies discretion in implementing program rules. In the U.S. and some other countries, by contrast, the goal of employer and worker advocates is often to get as many implementing regulations written into law as possible, which limits the discretion of program administrators and can lead to litigation over violations.

Third, be cautious about TWPs. Perhaps the major contrast is between thinking about free trade and TWP policies. Free trade policy is often described with a bicycle metaphor. Governments have to continuously dig free trade channels wide and deep to avoid having protectionist interests slow the free flow of goods, much as a rider must keep moving to avoid falling. Labour migration policies can be the opposite. What begins as a small program can become larger over time, as employer decisions and migrant networks increase the employment of foreign workers.

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Notes

- ¹ Most remittances replace earnings that would have been earned at home. The fact that wages are higher abroad means that there is generally more money available to migrant families, and these extra funds are generally spent on new or improved housing and on education and health care, especially for children in migrant families. However, migrants from rural areas that do not develop may be making investments that will ultimately prove to be futile, especially if children move away and the area does not develop.
- ² The H-2A program was created by the *Immigration Reform and Control Act* of 1986, and the H-1B and H-2B programs by the *Immigration Act* of 1990. In each case, existing programs were modified.
- ³ DOL's *Workforce 2000* report, released in July 1987, emphasized that the growth in the U.S. labour force would slow, the U.S. labour force would age, and that women, immigrants and minorities would represent a larger share of new labour force entrants.
- ⁴ The annual cap on H-1B visas was raised to 115,000 for FY99 and FY00, to 195,000 for FY01, 02 and 03, and then reverted to 65,000 a year in FY04. Beginning in FY01, H-1B workers employed by universities and their affiliated non-profit research organizations, as well as other non-profit and government research organizations, were exempted from the H-1B ceiling. Beginning in FY04, an additional 20,000 H-1B visas were made available to foreigners with Masters or Ph.D. degrees from American universities.
- ⁵ See <www.foreignlabourcert.doleta.gov/h-1b.cfm>.
- ⁶ The Labour Conditions Application wages may not be the actual wages paid by employers. However, wages are very close to what employers actually report paying on their U.S. Citizenship and Immigration Services petitions.
- ⁷ About 70% of the foreign-born with STEM education begin STEM careers, versus 50% of the U.S.-born.
- ⁸ Some STEM-educated individuals may use their S&E training in non-STEM occupations, as when an engineer works in sales or management, but the data highlight the fact that there are far more STEM graduates than STEM workers, and the gap increases with age.
- ⁹ See <www.foreignlabourcert.doleta.gov/h-2a.cfm>.
- ¹⁰ Of these 252 U.S. workers hired, employers found 34 and State Workforce Agencies 218 – that is, employers found very few of the U.S. workers hired (U.S. Department of Labor. 1998. Office of the Inspector General).
- ¹¹ If seasonal foreign workers are employed less than two months in Germany, the workers and their employers do not have to pay social security taxes on their wages.
- ¹² Spanish employers must pay the workers' transportation costs and provide housing; 90% of seasonal workers have been from Poland and Romania, but the origin of seasonal workers may shift to Africa as these countries get richer and workers there are less interested in seasonal jobs in Spain.

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